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THE SIXTH INTERNATIONAL PRISON CONGRESS

HELD AT

BRUSSELS, BELGIUM, AUGUST, 1900.

REPORT OF ITS PROCEEDINGS AND CONCLUSIONS.

BY

SAMUEL J. BARROWS,

Commissioner for the United States on the International Prison Commission.

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LETTERS OF TRANSMITTAL.

DEPARTMENT OF STATE,
Washington, February 10, 1903.

SIR: I have the honor to inclose herewith a communication from Mr. Samuel J. Barrows, commissioner for the United States on the International Prison Commission, transmitting a condensed report of the proceedings of the Sixth International Prison Congress, held at Brussels in August, 1900.

I have the honor to be, sir, your obedient servant,

JOHN HAY.

Hon. DAVID B. HENDERSON,
Speaker House of Representatives.

LETTER TO THE SECRETARY OF STATE.

WASHINGTON, D. C., *February 5, 1903.*

SIR: I have the honor to present herewith a condensed report of the proceedings of the Sixth International Prison Congress, held at Brussels, August, 1900.

I am, your obedient servant,

SAMUEL J. BARROWS,
Commissioner for the United States on the International Prison Commission.

Hon. JOHN HAY, *Secretary of State.*

THE SIXTH INTERNATIONAL PRISON CONGRESS.

INTRODUCTION.

The Sixth International Prison Congress held its sessions in the city of Brussels under the patronage of His Majesty the King of Belgium. It was formally opened Monday, August 6, and closed August 13, 1900.

Though the Congress meets but once in five years, the perpetuity of its work and influence is maintained through the International Prison Commission, which is the permanent executive committee of the Congress. This commission is composed of a representative from each of the adhering nations. The commission meets annually or biennially, prepares programmes, and drafts schemes and questions for investigation and report in the various countries represented. The programme of questions for the general Congress is determined some two years in advance by the commission and submitted to members and experts in all the adhering countries. The reports thus furnished are published some months before the Congress meets and furnish the basis for its discussions. In addition, the commission maintains a bulletin which serves as a medium of communication between the different countries represented.

The International Prison Commission was composed of the following members:

President: F. C. De Latour, secretary-general of the minister of justice.

Secretary: Dr. Guillaume, director of the federal bureau of statistics, Berne, Switzerland.

Treasurer: Mr. Fredrik Woxen, chief of the administration of prisons, Christiania, Norway.

Dr. Simon Van der Aa, inspector-general of prisons, The Hague, Holland.

Commander Joseph Canevelli, director-general of prisons, Rome.

Mr. Ferdinand Duflos, director-general of prisons, Paris, France.

Dr. C. Goos, minister of justice, Copenhagen, Denmark.

Mr. Hubsch, superior councilor to the minister of justice, Carlsruhe, Germany.

Mr. Rickl de Bellye, councilor to the Royal Hungarian ministry of justice, Budapest.

Mr. Samuel J. Barrows, ex-member of Congress of the United States and corresponding secretary of the Prison Association of New York.

Dr. D. Minkoff, secretary-general of the minister of justice of Bulgaria, Sofia.

Mr. H. Theleman, superior councilor to the ministry of justice, Munich, Bavaria.

Mr. Typaldo-Bassia, doctor of law, member of the Parliament of Greece.

Mr. E. Ruggles-Brise, president of the board of prison commissioners, Home office London, England.

Mr. Salomon, director-general of prisons, St. Petersburg, Russia.

PREVIOUS CONGRESSES.

The First International Congress was held at Frankfort-on-the-Main in 1846. It was formed under the inspiration and initiative of eminent penologists, such as Aubanel, Ducpétiaux, Jebb, Mittermaier, Moreau-Christophe, Suringar. Another meeting was held at Brussels in 1847 and in Frankfort-on-the-Main in 1857. But these congresses had no official relation to any government, and no steps were taken to form a permanent organization.

The Government of the United States took the first step in this direction in the year 1871. It sent abroad Dr. E. C. Wines to present personally to the governments of Europe, to criminologists, and to the heads of penal institutions the invitation of the Government of the United States to organize an international prison congress, "to collect reliable prison statistics, to gather information and to compare experience as to the working of different prison systems, and the effect of various systems of penal legislation, to compare the different effects of different forms of punishment and treatment, and the methods adopted both for the repression and the prevention of crime."

Dr. Wines received a warm welcome abroad, and secured the hearty cooperation of official and nonofficial penologists. As a result of this united endeavor the following congresses have been held:

Congress of London, held July 3–13, 1872, under the presidency of Dr. Wines. Twenty governments were represented. Before separating the Congress appointed a committee to organize a second Congress. This committee met at Brussels in 1874, and again in Bruchsal in 1875, and decided that it was desirable that the various governments should be officially represented by commissioned delegates. A subcommittee was appointed to draw up a constitution and by-laws. An invitation was received from the Government of Sweden to hold the next Congress at Stockholm, in 1878.

II. Congress, Stockholm, August 15–19, 1878. Twenty-three governments were officially represented. The International Prison Com-

mission was formally and permanently constituted and Monsieur Almquist, of Sweden, was made the president for the Congress of Stockholm. The action of the Congress was communicated officially to the different governments represented and their cooperation was asked in making the commission a permanent body. Articles of organization were submitted to the different countries for ratification. An invitation was received from the Italian Government to hold the next Congress at Rome, and Mr. Beltrani-Scalia, of Rome, was made the president of the commission.

III. Congress, Rome, November 13–25, 1885. Twenty-five governments were officially represented. At its close, Monsieur Galkine-Wraskoy, of Russia, was made the president of the commission, and the invitation of the Russian Government to hold the next Congress at St. Petersburg was accepted.

IV. Congress, St. Petersburg, June 3–11, 1890. Twenty-six governments were officially represented. The commission was reconstituted with Mr. Herbette, of France, as its President, subsequently succeeded by Mr. Duflos, who was likewise his successor as director of the administration of prisons in France.

V. Congress, Paris, June 30–July 9, 1895. Twenty-four governments were officially represented. The commission accepted the invitation of the Government of Belgium for the next Congress and Mr. de Latour, secretary-general of the ministry of justice of Belgium, was made the president of the commission.

A report of the Congress of Paris was prepared by the American delegates and published by the Fifty-fourth Congress, and distributed by the Department of State.

VI. The Congress of Brussels was therefore the sixth in the series. It is the object of this report to furnish a résumé of its proceedings.

UNITED STATES DELEGATES TO BRUSSELS CONGRESS.

At a meeting of the National Prison Association of America, held at Hartford, Conn., September 23–27, 1899, the following persons were elected to represent the association at the International Prison Congress: Mr. Z. R. Brockway, Maj. R. W. McClaughry, Rev. J. L. Milligan, Prof. Chas. R. Henderson, Hon. Henry Wolfer, Warden E. S. Wright, Gen. Roeliff Brinkerhoff, and Hon. Samuel J. Barrows.

Some of these gentlemen not being able to attend, their places were filled by the executive committee. The delegation as finally commissioned by the Secretary of State was as follows:

Judge M. D. Follett, of Ohio; Hon. Samuel J. Barrows, representing the United States on the International Prison Commission; Charles P. Kellogg, of Connecticut, secretary of the Connecticut State Board of Charities; Hon. Thomas E. Ellison, of Indiana; Mr. Michael Heyman, of Louisiana, president of the Prison Commission of the city of New Orleans; Judge Simeon E. Baldwin, of Connecticut; Rev. John

L. Milligan, of Pennsylvania, secretary of the National Prison Association; Charlton T. Lewis, of New York, president of the New York Prison Association.

Those who were able to be present at the Congress were Messrs. Baldwin, Barrows, Follett, Heyman, Kellogg, and Miss Mary Hall, of the State Board of Charities, Connecticut.

STATISTICS OF INTERNATIONAL PRISON CONGRESSES.

	London (1872).	Stockholm (1878).	Rome (1885).	St. Petersburg (1890).	Paris (1895).	Brussels (1900).
Total number of members	341	297	234	740	817	395
Members from abroad	149	142	93	177	287	234
States represented	24	25	25	26	24	29
Official delegates	76	45	48	69	88	85
Questions on programme:						
First section: Penal legislation	10	4	6	8	8	5
Second section: Penitentiary institutions	13	6	8	11	9	4
Third section: Preventive institutions	5	4	8	6	5	3
Fourth section: Questions relative to children and minors	.....	.....	.....	.....	8	4
Total	28	14	22	25	30	16
Preliminary reports on questions of the programme:						
First section	9	11	25	46	61	52
Second section	3	21	24	57	64	49
Third section	4	17	18	36	31	19
Fourth section	.....	.....	.....	.....	78	53
Total	16	49	67	139	234	175
Average number of reports per question	0.6	3.5	3.0	5.6	7.8	10.8

REPORTS FROM THE UNITED STATES.

The following preliminary reports were prepared in the United States and submitted to the Congress in advance of the meeting through the United States commissioner:

Reports.	Writers.	Pages.
The Criminal Insane in the United States and in Foreign Countries, Fifty-fifth Congress, second session, Senate Document No. 273	.....	80
Indeterminate Sentence and Parole Law, Fifty-fifth Congress, third session, Senate Document No. 159	5	63
Penological Questions, Fifty-fifth Congress, third session, Senate Document No. 158	9	64
New Legislation Concerning Crimes, Misdemeanors, and Penalties	1	480
The Reformatory System in the United States, Fifty-sixth Congress, House Document No. 459	14	240
Prison Systems of the United States, Fifty-sixth Congress, first session, House Document No. 566	21	157
Total	54	1,114
Contributions to bulletins and to Société du Patronage, about	.....	100
Total	.....	1,214

OPENING OF THE CONGRESS.

At 10 o'clock a. m. Monday, August 6, 1900, the formal opening of the Congress took place in the large hall of the Palais des Académies. Mr. van der Heuvel, minister of justice of Belgium and honorary president of the Congress, formally called the assembly to order and delivered the opening address. On each side of the honorary president were such members of the International Prison Commission as were present in Brussels, namely, Messrs. F. de Latour, secretary-general of the minister of justice of Belgium, president of the International Prison Commission; Goos, minister of justice of Denmark; Duflos, director of the prison administration of France, and honorary president; Salomon, chief of the general bureau of administration of Russia; Skouses, former minister of foreign affairs of Greece; Woxen, chief of the general administration of prisons of Norway; Barrows, commissioner for the United States; Simon van der Aa, inspector-general of the prisons of Holland; Rickle de Bellye, councilor to the royal Hungarian minister of justice; Ruggles-Brise, director of prisons of England; Dr. Guillaume, director of the federal bureau of statistics of Switzerland; Typaldo-Bassia, professor of the University of Athens.

On the platform behind the members of the commission were the following: Mr. Gérard, minister of France to Brussels; Caratheodory Effendi, minister of Turkey; Mr. da Cunha, minister of Brazil; Mr. de Pestel, minister of the Netherlands; Mr. Mitilineu, chargé d'affaires of Roumania; Count Marchant d'Ansembourg, chargé d'affaires of the Grand-Duchy of Luxembourg; Mr. De Sadeleer, president of the chamber of representatives; Baron Lambermont, minister of state, general secretary of the ministry of foreign affairs; Mr. Motte, first president of the court of appeals of Brussels; Mr. Graux, minister of state, former president of the bar association of Brussels, former minister of finance; Mr. Willemaers, attorney-general of the court of appeals of Brussels; Rev. Mr. Van Aertselaer, dean of Sainte-Gudule, at Brussels; Monsieur Bloch, chief rabbi of Belgium; Lieutenant-General Chevalier F. Marchal; General Lutens, commander of the province; Dr. Masoin, permanent professor of the university of Louvain, secretary of the Royal Academy of Medicine.

The addresses which follow were given in French.

ADDRESS OF WELCOME OF MINISTER VAN DEN HEUVEL, HONORARY PRESIDENT.

In deciding to hold your session this year in the capital of Belgium you have paid us an honor of which the country and the Government are very appreciative. Some of you come from neighboring lands, others from countries far away, but all are heartily welcome. You have come together to exchange the fruits of your experience, to give a new impulse to the moral progress of society. Accept our fraternal

sympathy and believe that along with our greeting we are proud that you have assembled in such numbers.

I thank the representatives of different Governments and the other eminent men who by their presence here testify to their interest in the work undertaken by this Congress.

The science of penology, gentlemen, is not a thing of yesterday, not a thing of the past. Never did it advance with more rapid strides than in the nineteenth century. With justice on its right and humanity on its left it goes on its conquering way through the world. It has gained the attention of philosophers and philanthropists, enlisted the sympathies of political writers and of public opinion, and has made itself felt in legislation. Prison reform has been inscribed as the watchword for the century. All countries have taken hold of this work, some promptly, some a little tardily, but no country that wishes to keep step in the upward march of civilization has been willing to stay behind its neighbors in the path of prison reform. Belgium, inspired and guided by two men whose names are dear to us, Vilian XIV. and Ducpétiaux, have striven to keep its place in this forward march of the nations.

You will visit our prisons, gentlemen. It is not for me to boast of them. You will see them for yourselves, and form a just estimate of them by your own wisdom.

The establishment of the cellular system will be accomplished shortly. I do not say that it will be the final system, nor that it marks the advent of a permanent method. That would be to say that we have attained our ideal, to deny the imperfection of things here below, and to overlook the need of keeping institutions always in harmony with the ceaseless changes in social affairs. But it seems as though after supreme efforts a moment of repose had come; as though after having rapidly ascended the steps of the new order, Belgium had reached a landing where she might await the practical results of experience.

There are two dangers to be feared, one almost as formidable as the other—fixed indifference in routine, and feverish restlessness in reform. It is only the superficial who believe that the science of penology is permeated with exaggerated sentimentality. You, gentlemen, know very well that firmness is indispensable in guiding men and in directing society, and that in troubled times especially its influence must be felt in order to master the situation. Do not seek therefore to blunt the defensive arms of society, but strive to have them used more wisely that their efficacy may be more real.

The penitentiary (allow me the comparison) is a great filter. The streams which pass through it must be clarified, the morbid germs killed, and all apparently irreducible matter withdrawn from further circulation. But just as it is necessary to perfect this great social filter, to improve its workings, and to increase the desired results, so it is also wise to see to it that the streams which flow into it are less charged with impurity, and that the currents which leave it flow limpid and clear.

In the name of His Majesty, the King of Belgium, who has at heart all humanitarian work, I declare the Sixth International Prison Congress opened. I hope that it may be as fruitful as its predecessors in renewing the ties which give grace and strength to the relations between men devoted to the science, and that it may be fertile in developing ideas and practical undertakings. [Applause.]

RESPONSE OF DR. C. GOOS, MINISTER OF JUSTICE, DENMARK.

MR. PRESIDENT, LADIES, AND GENTLEMEN: In the name of the International Prison Commission, of which for many years and until recently I have had the honor of being a member, I thank your excellency for the eloquent terms in which, in the name of His Majesty the King of Belgium, you have welcomed the Sixth International Prison Congress that has just opened its session in the capital of Belgium. The sympathy with our work manifested by the King of Belgium, the distinguished patron of the Congress, as voiced by so competent a man as the minister of justice, rests upon the knowledge of our work nowhere more complete than in a country that has put itself at the head of the nations of Europe through the prison reforms which it has carried out during the century just closing.

It can not be repeated too often that prison reform is not a vague sentiment whose aim is to weaken the means with which society combats crime in the name of justice and public interest. That combat society must maintain and exert all its strength therein. It can cease only when its enemy, that is crime, shall disappear from society. But while human nature remains unchanged, serious thinkers do not dream of such a Utopia. Kindness to criminals based on any such dream would be continually disappointed by the reality of things. No one who is responsible for the welfare of society would promote or even countenance any such ridiculous idea. If efforts at penal reform since the time of John Howard had rested on any such supposition they would have been paralyzed in the start, or would have been wrecked long since on the hard realities of life.

No, penal reforms introduced into different countries rest on entirely different notions. The aim has not been to relax the energy with which crime must be met, nor to weaken the weapons of society in resisting it. On the contrary, the watchword of prison reform has always been, Give to society better arms than the barbarous weapons of the past, that it may carry on the conflict with some hope of winning the victory. Sad experience has shown that the weapons of the past have not been used to great advantage. The army of criminals has not been decreased, except by death. On the other hand, the number of criminals has increased out of proportion to the increase of population. That is why the question is raised, whether the old punitive system was not based on a false foundation and whether it is not possible to find some punitive method adapted to reclaim the members of this army of criminals and make them obedient to law. Another and even greater question is whether it is not possible to find the way to arrest the too rapid increase of first delinquents, a task that the menace of penal law alone has not yet been able to accomplish. More stringent repression and more thorough preventive measures, these are the tasks that prison reform proposes. It is by that compass it has been steering. It is from this point of view, then, that we must judge the results already obtained and those which are hoped for in the future.

In the meanwhile every endeavor for reform resting on a moral conception must necessarily be humane in the true and just sense of the word. There is nothing surprising in the thought that prison reform working along the lines which I have indicated should be at the same time the champion of humanity. Nothing, indeed, would be more singular than that repressive justice should be inhuman. True justice can not be incompatible, irreconcilable, with true humanity. It is the

great merit of prison reform that it has tried to reconcile justice with humanity, and that end should be the ideal of which we should never lose sight.

These international prison congresses are attempting to bring about universal prison reform. They are held every five years for the purpose of exchanging the experiences that have been gained in different countries during that interval of time, and to discuss new questions that may arise, as well as to talk over the old ones that come up again. But the meeting now to be held in Brussels at the close of the century has the special task of trying to report what has been done in the last hundred years. How far has reform been carried in the past? Have the punitive measures which have been initiated taken deep root? Have they produced the desired results? How far have preventive measures, which now rank of first importance, been carried?

The commission recognized that it would be the duty of the Congress to present such reports and it inserted in the programme as one subject for discussion a report on the progress of the cellular system and the results obtained, not only in the United States, the first to adopt this system, but also in the European States which have followed it to a greater or less extent, and especially here in Belgium, where the lead has been taken.

It may be replied in the Congress that no definite judgment can yet be pronounced and that statistics for forming such a judgment are still lacking. It is true that prison statistics are greatly to be desired, as this Congress has energetically asserted over and over again. But perhaps the Congress may be obliged to vote, with this reservation, in regard to the separate system. On the one hand, experience will hardly allow us to consider that as the only efficient method of imprisonment for crime. Other reformatory methods have been tried. I may remind you of the congregate system, which originated in Ireland. I may remind you of the system of out-of-door work which has been tried in several countries. On the other hand, those countries which have adopted the cellular system need scarcely fear unfavorable criticism. Certainly they are witnesses of the fact that this system, though not the only method of wise administration, is of inestimable value. It may perhaps be employed only within certain limits, but there can be no thought of giving it up.

Recent prison congresses have called special attention to preventive measures as being of even greater importance than repressive measures. Of course the prevention of crime does not belong strictly within the domain of prison reform, but prison reform is so much interested in preventing crime that it can not fail to unite its efforts with those striving to strike at the roots of the evils which give such a large percentage of criminals. The commission has long recognized the importance of preventive measures in accomplishing prison reform.

One of the sections of the Congress is to discuss the questions arising as to the relation of juveniles to criminal law. The opinion is increasing that it is especially here that preventive work has its greatest field. Facts show that repression is as difficult a task as that of the Danaides so long as we can not stop the increase of juvenile criminals who become such through neglected education and who, in their tender years, have been subjected to influences of doubtful morality, or those which are positively immoral.

The commission thought, also, that this plan of making reports should include the conflict with another evil which brings numerous recruits into the criminal ranks, the conflict with the scourge of alcoholism. Reports will show, probably, that up to this time we have made too little progress in that direction. That bad showing should be a warning to the growing century to exert all its efforts to dry up the sources of crime whence spring the moral maladies which ravage society.

I have referred to some of the questions which will occupy the Congress, not because they are the most important, but because they seem to me particularly distinctive of a Congress which is to meet at the close of the century and which will give it its characteristic mark.

It is needless to say that we owe the honor of this carefully prepared programme, together with many reports, first of all, to the president of the commission, the head of the prison administration of Belgium, and, conjoined with him, to the man who for more than a generation has acted as general secretary of this Congress, Dr. Guillaume, and who has contributed more than I can tell in these few words to their success and their permanent results. [Applause.]

In the presence of these two men I dare not enlarge further on the merits of the Congress just opened, but I can not refrain from expressing the feelings of gratitude, which we all share, to these two men first of all. It is true their efforts would not have been successful had they not had aid from many sides. If I refer here to the many valuable reports which have been submitted to us, it is to express my delight in these contributions which mark the international character of the congress. The bond which unites prison-reform work among the nations grows stronger. It is no vain pretense if we venture to take a place among those international unions which help to confederate the nations and contribute to the progress of civilization.

Let us hope that this Congress will show itself worthy of its predecessors in London, Stockholm, Rome, St. Petersburg, and Paris, and thus it will do honor to the country which has opened its doors to us with such hospitality. That will be the best way of thanking the State, whose King, the distinguished patron of the Congress, and whose Government, through his excellency the Belgian minister of justice, have just given us so cordial a welcome. [Applause.]

ADDRESS OF THE PRESIDENT, MR. FRANÇOIS DE LATOUR.

GENTLEMEN: I thank you from the bottom of my heart for the mark of distinguished good will which you have just shown me. If in taking the presidential chair to which you have called me I experience deep emotion it is not only the weight of the burden which your confidence has imposed upon me, it is much more on account of the great and commanding associations which sweep over and overcome me at this moment.

A little more than a hundred years ago the mild, the great philanthropist John Howard was traveling through Europe, visiting the places which hid the greatest misery and suffering—hospitals, jails, and prisons. In the description of his journeyings left to us by that wonderful pilgrim of charity he tells us of the grievous horrors of every kind, unworthy of humanity, which almost everywhere greeted him. But when he reached the land where we are gathered to-day he found some-

thing to console him for the horrors which had so stirred his heart. He saw in the full bloom of its youth the imposing institution which had just been founded by Vilain XIV, the county jail of Ghent, then known as the Rasphuys. He saw instituted there a new method of repression which corresponded to a new aim, the reformation of the criminal along with his punishment, a system which consisted in preserving prisoners from mutual contamination, notably by separation at night, and in seeking to reform them through labor as well as by moral instruction. All that I mean to say with reference to this first great memory is that, thanks to the bold and fortunate initiative of Vilian XIV, that abominable era, if I may so describe it, was closed for the poor prisoners, and the world saluted the dawn—how brilliant a dawn—of a new era, when in spite of their downfall their manhood was restored, and as the sun penetrated their formerly dark cells with floods of light, so the radiant hope of reformation could penetrate the gloom. A majestic voice had said to all, henceforward you may, if you will, raise your foreheads, which have been prone in the dust, but which are still the foreheads of men, and which were created by God to look toward the skies.

But, gentlemen, this brilliant aurora did not last long. The institution of Vilain XIV, imitated and improved upon elsewhere, was jeoparded where it was born, and strangely that which led to its temporary decline was a cause which even yet makes prison administration difficult. The reform work undertaken by Vilain XIV being based on labor, at once provoked the opposition of free labor. These objections were listened to, alas, and soon after one could have seen in our provinces a state of things analogous to those whose disappearance had been hailed by John Howard with such joy. But the good work prospered abroad and has been further developed and perfected. The separation of prisoners instead of being only at night, as at Ghent, was adopted for both day and night, and the cellular system was thus born in its turn.

I pass rapidly over this interesting part of the history of prisons to recall to your minds another memory, grave and imposing, the vast good achieved by another man of large heart and noble intelligence, I was about to say another man of genius, Ducpétiaux. But this work is too near our own time for me to need to recall it to you. Besides, dear foreign members of our Congress, you are going to visit our prisons, and it is there that his glory and his imperishable work may be found. He left behind him, it is true, something more precious and glorious still, the methods of administering Belgian prisons. He put his whole soul into that work, and what a soul it was. All the treasures which more than half a century ago Ducpétiaux began to collect are still intact. I say it with pride, I who, though unworthy, have had them in charge. The improvements which have been made in our penal system in recent years are but the realization, too long postponed, of those ideas which he conceived.

In bringing back your thought reverently to these two good men, Vilain XIV, and Ducpétiaux, I have no thought but to place our assembly under the ægis of their pure and beautiful fame. May their memory hover about us as we work.

And now, gentlemen, in carrying out our programme, if I could utter all that my heart and mind suggest, I should say to all those engaged in prisons, scientifically and philosophically, and in the management

of prisons and in the care and reformation of prisoners, do you not believe that if we so determined all the advantages to be had in the prison world might be realized everywhere? Will the great secret escape us if we ardently seek it, or rather do we not already have it, and what is needed but that we should apply it? Can we not henceforth direct our study and solicitude less toward the management of prisons—humanity demanding not much more in that direction? We know well enough how to build prisons; how to administer them; but, perchance, not well enough how to keep prisoners out of prison. Ah, gentlemen, if my voice were strong enough to be heard in every corner of the world by those who make up the holy fraternity of compassion, of pity, and of charity for the worst human evils, I would cry to them: Let us fly to childhood, poor and abandoned physically and morally. Let us fly to it; not because it suffers and it is cruel to let innocent and defenseless beings suffer; not because it is sad to see that which God has made so beautiful fading away; let us fly to it to prevent crime from making its recruits there and to save society by preserving childhood free from corruption and suffering.

Let all our mental energy, all the compassion and tenderness of our hearts, all the refinement, the skill, and the ingenuity of our charity, all these God-given gifts, be lavished henceforth on poor and forsaken childhood.

I have not the presumption to believe that charity has awaited my appeal to choose that path. We have too many charitable institutions for childhood already flourishing under our eyes. But what I do say, with the deepest conviction, is that the protection of childhood should be the sovereign charity in the century to come.

Gentlemen, in following so noble an end as that, we shall really be following after the ideal foreseen by that venerable magistrate who presided over the Brussels Congress in 1847: The last prison emptied of the last prisoner and turned into an asylum for old men and orphans.

At one of the sessions of the International Prison Commission held with reference to this congress, the commission felt it to be its duty to express a feeling of indignation at the horrible crime of which His Majesty King Humbert, of Italy, was the victim. At the same time it expressed sentiments of deep and respectful sympathy with the royal family of Italy so suddenly deprived of its august head. It likewise expressed its horror at the attempt, happily thwarted, against the Shah of Persia and also the attempt in Belgium against His Royal Highness, the Prince of Wales. I move, gentlemen, that you unite in these sentiments as a Congress. [Unanimous applause.]

We are now about to complete our organization. Permit me first to propose to you, in conformity with a tradition of our Congress, those members of the commission who have rendered our Congress the most signal service. I nominate as honorary presidents of the Congress Messrs. Beltrani-Scalia and Galkine-Wraskoy, who presided respectively at the congresses of Rome and St. Petersburg; M. Goos, minister of justice for Denmark, who has been so invaluable to the commission; and, finally, M. Duflos, who presided with such great distinction at the Paris congress. [Applause.]

We have now to choose our vice-presidents. I propose that the official delegates of the United States, England, Baden, Denmark, France Greece, Hungary, Italy, the Netherlands, Norway, Russia, Sweden

should serve us in this capacity: Messrs. Barrows, Ruggles-Brise, Holzknecht de Hort, von Engelberg, C. Goos, fils, Picot, Skouses, Rickl de Bellye, Nocito, Simon Van der Aa, Woxen, Salomon, Wieselgren. [Applause.]

I propose as general secretary, M. Dr. Guillaume, the faithful guardian of our traditions, the stimulator of our zeal when sometimes it has waned. Let us once more confirm him as the perpetual secretary of the Congress. [Hearty applause.]

As assistant-general secretaries I propose Messrs. Didion, Typaldo-Bassia, and de Westmann; as secretaries Messrs. Polander, Haus, and Albert Willems. [Applause.]

Gentlemen, the head of the King's cabinet has done us the honor to address to us the following letter:

THE PALACE, BRUSSELS, *August 2, 1900.*

MR. PRESIDENT:

In accordance with my letter of July 6, I have the honor to inform you that the King will find it impossible to be present at the opening of the Sixth International Prison Congress on the 6th of August owing to his absence from Brussels.

His Majesty has charged me to assure you of his interest in the work of this assembly, and to express to you his sincere regret at his inability to accept the invitation which you have sent to him.

Accept, Mr. President, the assurance of my esteem.

(Signed) CIE P. DE BORCHGRAVE D'ALTENA.

OFFICERS OF THE CONGRESS.

President: Mr. F. De Latour, sécrétaire général du département de la justice, directeur général des prisons et de la sûreté publique.

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Associate general secretaris: Messrs. Charles Didion, Belgium; Typaldo-Bassia, Greece: W. de Westmann, Russia.

Secretaries: Messrs. Pollender, Haus, and Albert Willems of Belgium.

FIRST SECTION.

PENAL LEGISLATION.

President: Felix Voisin, conseiller à la Cour de Cassation, Paris, France.

Vice-presidents: Simeon Baldwin, New Haven, Connecticut, United States; Cedrun de la Pedraja, Spain; Robert Cossy, Lausanne, Switzerland; Dr. D. O. Engelen, of Holland; Senator Foinitzki, of Russia; Granier, Paris, France; Richard Junghanns, of Freiburg, Germany; Miss Lydia Poët, of Italy; Jésus Zénil of Mexico.

Secretary: Isidore Maus, Brussels, Belgium.

Associate secretaries: Messrs. Meyers and Kinon of Brussels, Belgium.

The Indemnity Due to Victims of Crime.

First question:

What would be, following the order of ideas indicated by the Congress of Paris, the most practical means of securing for the victim of a criminal offense the indemnity due him from the delinquent?

The question submitted above was derived from a resolution of the Congress of Paris of 1895, to the following effect:

"The Congress believes that there is reason to take into very serious consideration the propositions which have been submitted to it, to the end that a portion of the earnings of the prisoner in the course of his detention should be assigned to the party injured by his offense, or proposing to establish a special fund derived from fines from which aid should be granted to the victims of penal offenses; but as the Congress does not think it is in possession of the necesary elements for the solution of this question it decides to refer it to the more profound study of the next Prison Congress."

It was in response to this reference of the Congress of Paris that the question was newly inscribed on the programme of the Congress of Brussels. The result of the appeal to experts in different countries was the preparation of some interesting and valuable reports on this question. The reports were 13 in number, and cover some 147 pages of the proceedings of the Congress.

Mr. F. Ancel, president of the Société de Patronage des Libérés de l'Aube, briefly stated the importance of the question and the justice

of reparation for the victims of crime, and suggested that some deduction might be made from the earnings of prisoners for this purpose.

Mr. J. Bailly, director of the Central Prison of Ghent, examined in detail the question of reimbursing the victim from the earnings of the prisoner from the standpoint of Belgian experience. It is conceded that prisoners are for the most part insolvent. It is of no use to levy upon their effects. How about their earnings in prison? The State seeks to secure from the product of the prisoner the cost of maintaining him. The State is therefore the first creditor. Faithful also to the principle that the rehabilitation of the prisoner should follow his punishment, the State reserves a portion of the sum earned by the prisoner until the day of his release, in order to aid him on discharge to begin anew the conflict outside with some hope of success. Hence a second creditor. The prisoner's earnings being limited, there is little left to satisfy the demands of a third creditor. In Belgium the expenditures of the minister of justice are nearly 23,000,000 francs, of which 2,700,000 are for penal establishments. Of the latter sum 1,500,000 francs are appropriated for salaries and the care and furnishing of buildings; 1,200,000 to the support of convicts and gratuities for work—1,000,000 for the former and 200,000 for the latter. The last-named sum represents the amount paid to convicts for work, supposing the State to receive something for the gross product of that work. The difference between that gross product and the sum of 200,000 francs—let us say 400,000 as a maximum—is that which the State collects; that which serves as compensation for the expense of keeping the State's prisoners. This 400,000 francs represents the thousandth part of the general annual budget of the State. If this amount were given up, each taxpayer would have to pay 1 centime additional for every 10 francs of tax actually paid. Ought this trifling addition to be rejected before even studying the subject?

But Mr. Bailly raises the question whether the State has the right to reimburse itself for a part of the expense of the keeping of convicts through their own labor. The judiciary system costs Belgium annually 8,000,000 francs. By its arrests and sentences it creates convicts, but who would dare to say that the work of convicts ought to defray the expenses incurred by the judiciary system? No one, for the reason that the judiciary is a social necessity. Mr. Bailly argues that the portion of the convict's earnings reserved by the State for his expenses might be applied to the payment of damages caused to the victims of crime. In Belgian prisons a hand weaver condemned to imprisonment can earn 17½ francs a month, which represents a total labor value of 50 francs. The difference, 32.50 francs, might go to the injured party, which would constitute a yearly indemnity of about 400 francs. But the greater

number of convicts would be incapable of doing so much for various reasons, depending upon the length of their term, the kind of work, and various other reasons. Suppose a man to have stolen 100 francs. If the convict could earn as much as the weaver referred to, he could earn enough to make good the loss to his victim in about three months. The balance of the sentence would then be the penalty due to society. And we might ask if the portion of the product of the prisoner reserved till then for the victim might not be turned into an indemnity fund to balance the possible insufficiency of the earnings of some other convict in proportion to the injury he had caused the victim. Mr. Bailly does not deem the solution of the question impossible. Of course there would be exceptions to its operation. What compensation, for instance, can be given to a family whose head has been murdered? In Belgium a convict with a trade by which he earns 2 francs a day would assure to the family of the victim an annual income of 500 francs, and his perpetual imprisonment would have at least one good result.

The report presented by Judge Simeon Baldwin, LL.D., of New Haven, Conn., has been published in full in the reports prepared for the Congress by the commissioner for the United States. (See Penological Questions, Senate Document No. 158, Fifty-fifth Congress, third session.) Judge Baldwin gave an interesting review of the historic aspects of the question, quoting freely Roman, English, and continental theories, with an exposition of American precedents. Judge Baldwin would agree to the indemnification of the injured party furnished by a reasonable fine, after having deducted a sum sufficient to indemnify the State, or to apply some of the earnings of the prisoner after having deducted the costs of the prosecution.

Mr. Benielli, director of the penitentiary of Besançon, regards the creation of a special fund of fines for the reparation of the damages caused by infractions of the penal code as unnecessary and dangerous. It is not to be admitted that the State is responsible for damages caused by a malefactor. If the convict is solvent the rules of common law are sufficient to insure the indemnification of the victim. The insolvent delinquent should be imprisoned and the product of his labor applied to the indemnification of his victim without any reduction being made for other motives. While the creation of an indemnity fund would be arbitrary and unjust, the establishment of an aid fund for victims in distress is desirable. This aid fund could be maintained from fines obtained when a pecuniary penalty is pronounced.

Mr. A. Berlet, procureur of the Republic at Baugé, France, favored various legal formalities and precautions to be taken by the prosecution to establish a lien upon the property of the delinquent to the advantage of the victim. He would not accord conditional liberation till after the complete indemnification of the victim; though

liberation might be made conditional to secure from the delinquent the indemnity needed. When the author of a crime has only been placed under suspension of sentence and does not fulfill his pledges toward the victim of his offense before the expiration of his probation, he should undergo the penalty pronounced. The earnings of a prisoner should in part be assigned to the victim of his crime, and the wages of an offender under suspension of sentence should be assigned likewise.

Mr. René Demogue, advocate of the court of appeal and member of the Faculty of Law of Paris, presented views similar to those of Mr. Berlet, differing somewhat in detail, but favoring the assignment of a portion of the earnings of the prisoner to the victim and the establishment of an aid fund.

Mr. Du Mouceau, procureur of the République, Beaune, France, proposed the establishment of an indemnity fund sustained by fines proportional to the revenue of the violator of the law. The end of prosecution is repression. That ought to be equally burdensome for each delinquent. This principle is advocated by Montesquieu: "A gradation should be established between different penalties corresponding to the resources of the offender." Bentham held the same idea. This is not observed in practice. The millionaire and the day laborer are sentenced to the same fine if they have committed the same offense. If the workman is condemned to a fine of 6 francs it represents the product of four days of labor. It constitutes for him a veritable penalty. For the rich it is a trifle. Certain States, notably England, Prussia, Saxony, Italy, and some cantons of Switzerland, to relieve less fortunate taxpayers and to secure an equal sacrifice among its citizens, have established a tax on incomes, and other States would have adopted it if the difficulties of its application had not prevented. We may affirm, then, says Mr. Du Mouceau, that when a workman pays for a violation of law four times his daily wage that it would only be just that a person more fortunate should pay for the same offense four times the amount of his daily income. The income from fines would thus be augmented in a manner to permit the indemnification of the victims of insolvable offenders. The amount thus derived from fines for police infractions and minor offenses would go to pay the damages caused by thefts, fraud, and more serious offenses. He calculates that the damage caused by crimes and misdemeanors in France is less than 20,000,000 francs, and that if proportionate fines or penalties were imposed based on income that at least 16,000,000 francs could be obtained. In further support of his idea, Mr. Du Mouceau noted that the draft of the Norwegian code of 1887 adopted by the legislative committee contained the idea of a fine proportioned to the income of the offender, a maximum, however, being fixed.

Mr. R. Garofalo, substitut du procureur général of the court of cassation of Rome, regarded the question as one of the most import-

ant in penal legislation. His opinions on the subject were communicated to the Congress of Rome in 1885, to that of Brussels in 1889, and to that of Paris in 1895, and are published in the proceedings of those congresses and in those of other bodies. The eminent Italian criminologist has thus been for twenty years one of the most prominent advocates of indemnity for the victim of crime. In his report to the Congress of 1900 he does not attempt to go over the whole ground of the question covered in previous reports, but advances some pertinent considerations. Viewed from the point of prevention, Mr. Garofalo regards the obligation to pay damages which might be imposed on a prisoner as a far more serious menace or constraint than the common imposition of a short term of imprisonment. The malefactor, after the expiration of his term, has the money which he stole, and which during his imprisonment was concealed or confided to safe hands. He has no notion of returning it. In spite of repeated condemnations, such rogues are frequently enriched. There can be no doubt that there would not be so many competitors in the trade if the security of the delinquents in concealing their property were replaced by the certainty that they would be obliged to return it or indemnify the victim.

But there is a second point of view of still greater importance. The great difficulty in relieving the cost of prison administration and in improving the condition of the prisoners arises from the great number of those committed to penal institutions. It is formed principally from a floating population committed under short sentences from eight to ten days or two to three months. In France of 120,000 committed to prison for a year or less, 50,000 are in prison but for five days. In Italy an average of nearly 100,000 are condemned to prison for three months or less. The total number sentenced to imprisonment for three months and for detention and reclusion for six months reached, in 1896, 174,902. The expense is enormous for lodging and feeding the great army of delinquents who remain in prison for but a few days. It is evident that such short penalties are without the slightest power of intimidation, and that as to their corrective effect it is not worth while to speak of it.

Mr. Garafola would correct this by restricting the use of imprisonment and admitting only penalties of a certain duration for dangerous criminals and for recidivists, and in substituting for short penalties a strong form of coercion to oblige delinquents to make reparation to their victims.

In the case of prisoners having property, steps should be taken to secure it, and to prevent illegal transfers. As to insolvent offenders, other methods of constraint must be sought. Short penalties should be abolished. The minimum term of imprisonment being sufficiently high, its execution should be suspended in the case of offenders

who beyond the costs of the process have paid a sum fixed by the judge as a reparation for the injured party, exception being made in the case of professional criminals and recidivists. The State treasury would gain, since it would not only be spared the expense of supporting the prisoner, but would be reimbursed for all other expenses. The delinquent would be punished more seriously than if he had to spend but a few weeks in prison, and the injured party would be happy to be reimbursed, which happens so rarely to-day.

In the case of serious offenses in which imprisonment is deemed necessary, Mr. Garofalo would make parole after a certain time of imprisonment depend upon the willingness of the prisoner to reimburse his victim from his earnings saved in prison.

Finally, Mr. Garofalo favors a public fund, a caisse d'Etat, to assure reparation, at least partial, for those who can not obtain it in any other manner. We shall have made a great step of progress, he holds, when the State shall regard it as a public function to indemnify for crime.

Mr. Henri Pascaud, conseiller à la cour d'appel de Chambéry, France, likewise supported the proposition to assign a portion of the earnings of the prisoner to the victim and also the establishment of a special indemnity fund by the State.

Mr. J. A. Roux, professeur agrégé of the faculty of law of the University of Dijon, presented in the name of La Société Générale des Prisons a report viewing the subject from a different angle and reaching different conclusions from the more ardent advocates of reparation. Mr. Roux shows the difficulty of applying the earnings of the prisoner while in prison or after his release to the indemnification of the victim, and the inadvisability of throwing upon the State the responsibility of indemnifying the victim. The conclusions of the report succinctly summarized are:

The indemnity due to the injured party is not to be sought from the earnings of the offender, either within prison or without, but an assignment of the earnings of the prisoner to the injured party might be permitted after they had reached 100 francs ($20). The establishment of an indemnity fund is not advisable, for it would require the State to repair the damage which ought to be repaired by the offender. But the chances of indemnity for the injured party would be seriously increased if the idea that the offender is civilly responsible to the victim received all the extension of which it is capable; and if, in addition, corporations whose services are obligatory were held civilly responsible for the offences committed by their members, and if an indemnity fund were formed from damages unclaimed by those entitled to them.

Mr. William Tallack, secretary of the Howard Association of London, who has been for many years an advocate of the need of secur-

ing reparation for the victims of crime, rendered a report which described ancient and modern attempts to solve this question, giving a summary of the provisions in the English civil law and of tendencies in English legislation as seen in the "Malicious injuries to property act" of 1861, and the more recent employer's liability act, but showing also how far England is yet from providing for any indemnity for penal offenses. Mr. Tallack proposed the adoption of an alternative between imprisonment and indemnity for the victim in the case of offenders capable of paying, and for insolvent delinquents imprisonment with limited compensation offered to the victim by the State.

Mr. Veillier, director of the prison at Fresnes, France, called attention to the fact that according to the reports made to the congress in 1895, the earnings of prisoners were higher in France than in any other country; but that the sums earned there, owing to the shortness of the sentences of prisoners, were insufficient even to clothe them decently. Statistics showed that in 1895 those committed for long terms had on an average about 135 francs ($27) at the time of their discharge. But this amount is sufficiently small to clothe the prisoner, transport him to his home, and sustain him while he is awaiting work. Indemnity could, therefore, only be obtained by civil suits for damages or by special appropriations from the treasury of the State.

Mr. Zucker, professor of criminal law in the University of Prague, thinks on the other hand that the most practical way of assuring indemnity to a victim of crime would be to assign to him a portion of the earnings of the offender in the course of his detention.

DISCUSSION.

Mr. Prins, professor of the University of Brussels, summarized the conclusions of the 13 reports presented. He noted entire agreement as to the desirability of securing or facilitating indemnity for the injured party, but the difficulty is in securing this when the offender is insolvent. As to a fund composed of fines levied, he called attention to the relative totals of fines imposed in Belgium and the relation they would bear to a pecuniary indemnity. The statistics of Belgium show that in 1897 there were about 200,000 infractions, and about 100,000 of these had caused some damage. Estimating the damages inflicted as about 100 francs ($20) as the average, we should have 10,000,000 francs ($2,000,000) as the sum of damages, and to repair this we should have 500,000 francs ($100,000), which would mean $1 for each sufferer. Mr. Prins opposed an indemnity fund, the cost of which would fall upon taxpayers. He showed likewise the insufficiency of the earnings of prisoners and their great variability. He proposed, however, to introduce as much as possible the economical element into reparation by providing that as much account as possible should be taken of the reparation due to the victim of the offense as a motive or condi-

tion of suspension of sentence or of conditional liberation after imprisonment.

Senator Bérenger agreed with Mr. Prins concerning the insufficiency of the prisoner's earnings for purposes of reparation, and as to the inadvisability of having a public fund or bank for the purpose, but disagreed with him in regard to making such reparation a condition of probation.

In the animated discussion that followed, and which it is not necessary to give in detail, nearly all the propositions presented in the preliminary reports were considered in the section. When it came to a vote the proposition to create a public fund was rejected, likewise the suggestion to apply the earnings of the prisoner to this object. The proposition of Mr. Prins that in certain cases conditional condemnation and conditional liberation should be made dependent upon a pecuniary reparation by the delinquent for the damage he has caused, was rejected by a close vote of 19 to 16.

The section contented itself with adopting again the resolution of the Congress of Paris to increase by reforms of procedure the powers of the victim of crime in a civil action.

Senator Bérenger was charged with the duty of reporting the conclusion of the section to the general assembly. The discussion brought out new speakers, but not new points. It was evident that the delegates were rather closely divided on the proposition of Mr. Prins that more account should be taken of reparation in according probation or parole to the offender. The danger, however, of interfering with the successful operation of the law for suspending sentence, which is now effectively administered in France and Belgium, and the influential appeals on this point of Senator Bérenger, the author of the law in France, and also by Judge Felix Voisin, of the court of cassation, led to the adoption of the resolution of the section reaffirming the conclusion of the Congress of Paris:

> *The Congress adopts again the resolution of the Congress of Paris to facilitate by reforms in procedure the legal position of the party seeking relief by civil action.*

The Extradition of Subjects.

Second Question:

> *Should the extradition of subjects be admitted?*

The science of penology is far-reaching in its relations. The domain of criminal law lies adjacent to various other realms of authority and public welfare. It is impossible to bound it by purely geographical lines. The interests of modern nations and communities in their relation to crime are identical. It was natural, then, that the Congress at Brussels should embark in a discussion which led it far into

the fields of international law. The question, "Shall citizens or subjects of nations be extradited when charged with crime?" furnished the basis of able and interesting reports from 15 reporters, some of whom also treated the third question in the same papers. As many of the same arguments were presented in different reports, it is unnecessary to give each of them in detail; it seems better to gather together and condense the arguments and illustrations of different reporters.

The argument for the extradition of subjects may thus be summarized:

Extradition is a matter of competency. The fundamental principle in matters of competency is that the delinquent should be judged and punished in the place where he has committed the crime. It is there that he gives satisfaction to social order by his punishment and to the injured party by reparation of damages. It is only where the crime has been committed that it is easy to collect the proof, and that the accused can easily find means of defense, and that the civil obligations of the author of the crime toward the injured party can be more exactly defined.

It is in the interest of the person to be tried that citizens should be judged by the tribunals of the country where the crime has been committed. In every penal process there is not only the accusation, but the defense. And in what country can be found more easily the proofs to clear the accused than in the place where the charge has been brought? It is there that witnesses, experts, and the necessary documents may be found. How can this be done in his own country, far from the place where the facts occurred? It is possible, of course, by letters of inquiry to procure these means of proof, but everyone knows the difference there is between the reading of a written deposition and the personal evidence of witnesses. Very often it is necessary to confront witnesses with each other to see where the truth lies, or it is often necessary to bring some one who did not figure among the witnesses to explain an unforseen circumstance which arose in the course of the trial. All of these things would be impossible in a process conducted at a distance from the place where the crime has been perpetrated.

And what do we say in a case where there have been several delinquents implicated in the same trial, some of whom may be citizens and some foreigners, and where the process is by its nature indivisible? Is it to be supposed in this case that we should send accused foreigners before the court of their own country only because these accused persons have there taken refuge? Who, asks Senator Canonico, of Italy, would sustain such an absurdity?

Professor Garçon, of Paris, in a report made in the name of La Société Générale des Prisons, furnished examples which show the inconvenience and expense of trying offenders away from the place

where the offense was committed. A Frenchman had committed assassination in the Argentine Republic. France has a treaty of extradition with that country, but, like those of most nations, it does not apply to its own subjects. The culprit fled to France. He could not be delivered up to the authorities of the Argentine Republic because he was a Frenchman. He was arrested, however, and the case was brought before the court of assizes of Douai. The documentary proofs, which were fortunately complete, were received from South America. But the judges found themselves much embarrassed on receiving documents written in a language of which they were ignorant. An official translation was made. This, however, would not suffice, for depositions before the court of assizes must be made orally. The French Government then asked the Argentine Government to cite the principal witnesses. Some important witnesses declined the long voyage to Europe. Others eagerly accepted the excursion, with their expenses defrayed by the French Republic. But at Douai, a small provincial city, the witnesses could not be understood by anyone. It was necessary to send to Paris for an interpreter. In spite of all these difficulties the accused was finally convicted of his crime. Unfortunately, however, the finding was annulled by the court of cassation owing to an error in form relatively insignificant. All had to be done over. The witnesses were asked to remain in France at the expense of the Republic until a new process was completed, which resulted in a second condemnation.

Why these delays, asks Professor Garçon—these obstacles opposed to the good administration of justice? Why this useless procedure in France, where nobody knew anything of the crime, and why these enormous expenses, which exceeded a hundred thousand francs? Simply because the steamship had left before the discovery of the crime, taking the accused far from his natural judges. A few hours' delay in embarkation and the assassin would have been legally condemned by the Argentine tribunals, and nobody would have doubted the justice of their courts.

The same reporter furnished a second example. Two manufacturers had committed a crime together and taken refuge in France. One was a foreigner; the other a Frenchman. The first was delivered to the country where the crime had been committed; the extradition of the Frenchman was refused. Without doubt there is no absolute obstacle to a division of a process directed against the principal author and against his accomplice, though it might happen that one might be condemned and the other acquitted; but such results are not desirable, and it is well to avoid them. For a criminal process to have its true form and character it ought to bring before the same judge, and at the same time, all those who have cooperated in the criminal action, that their relative responsibility may be fixed. In that case the extradi-

tion of subjects would lead to the simplification of procedure and to a more effective justice.

A central point in the controversy is to determine the natural judge of the delinquent. This is an old dispute based on the rivalry between the judge of the place where the crime is committed, and the judge of the person presumed to have committed it. The result of the long contest as to competency is in favor of the judge of the place. It is to-day an uncontested principle, both in domestic and in international law, that an offender must submit to the police laws of the country where he is and become amenable to its courts. This is an attribute of sovereignty, and under it it is agreed that the courts of the country may judge according to their laws a foreign criminal as well as a subject. The judge of the place is so naturally and ordinarily the judge that if a conflict arises between a State upon whose territory the crime has been committed and the State to which the accused belongs by virtue of his nationality, and both States make requisition for extradition upon a third State, the preference is given to the country where the offense has been committed.

The historic aspects of the subjects were brought out by several reporters, notably by Professor Garçon and by Messrs. Ivanowsky, Challandes, and Pascaud. In general, international practice has interdicted the extradition of subjects. It is forbidden by the legislation of various countries, notably Germany, Austria, Belgium, Hungary, Italy, and the Netherlands. In those countries the Government could not conclude a treaty in which the extradition of subjects should be recognized. In France the question has had an interesting history. There is no special legislation upon this point. However, Napoleon, by a decree of October 23, 1811, expressly permitted the surrender of a French subject accused of crime, and there are examples in 1812, 1813, and 1820 of the rendition of certain French criminals. Authorities in France have disputed the question as to whether this decree could yet be invoked. At any rate it is not observed, and according to some authorities was abrogated by the law of June 27, 1866. Anglo-Saxon legislation stands in striking contrast with that of other countries in this respect. Treaties between England and the United States permit the extradition of subjects. In these countries penal laws have above all a territorial character. In various treaties England has made the question of the non-extradition of the subjects to depend upon the demand of the contracting States, but England has taken a more decisive step and has even proposed to abandon this rule of reciprocity. In its more recent treaties, notably in its treaty with Spain of the 8th of June, 1878, it has agreed to deliver all malefactors without distinction of nationality, and consequently English subjects, although the Spanish Government has refused to deliver its own subjects.

Although the doctrine of the non-extradition of subjects is sustained by many writers, the more pronounced tendency to-day is in favor of extradition. The new tendency is felt not only among writers on international law, but in the sphere of government. The circle of international relations is enlarged. While each nation should give aid and protection to its subjects, this protection should not extend to a criminal who is the common enemy of civilization. Society needs to be established upon a solid basis for the repression of all criminal and dishonest enterprises. In a former state of society, when each State lived in isolation, the conditions were different; but to-day, thanks to the benefit of a progressive civilization and to the extension of diplomatic and commercial intercourse, a new basis of harmony between different States is established. But at the same time, if the circle of international relations is enlarged, crimes and misdemeanors, theft and fraud are reproduced under many forms. The extradition of subjects is one practicable defense against such criminals. No criminal should be allowed to shelter himself from the penalty of his crime, whatever may be the country in which he takes refuge.

It has been objected that the national dignity of a nation does not permit a government to deliver its citizens to a strange government, to which Senator Canonico replies that the true dignity of a nation consists in being just and impartial toward all. How can there be any loss of dignity in delivering a culprit to the same tribunals which would have judged him if he had not fled from them to his native land?

A second objection advanced is that each government must safeguard the interest of its subjects; that they have not before foreign tribunals the same guaranties as before the tribunals of their own country. Often he is ignorant of the language of the country; perhaps he does not find there the impartial justice that he may find at home. Will he not have to encounter certain prejudices as a stranger? The criminal has no right to impunity, but he may demand at least to be judged under the laws of his own country by tribunals which give a complete guaranty to his defense; but this argument, says Mr. Garçon, is not irrefutable. The English commission in 1878 said substantially: "When we invite other nations to organize in concert with us a system of extradition, it is illogical to admit every restriction implying a doubt upon the competence or the justice of their tribunals. Extradition supposes a mutual confidence in the manner in which justice is rendered by the courts of the two countries. If that confidence should not exist, no one should be extradited, a foreigner no more than a subject." On this subject Senator Canonico says: "As to the fear that in our day magistrates in civilized countries are wont to judge foreigners with greater severity than natives, I do not believe it is well founded. The contrary tendency is evident. There is frequently a tendency on the part of judges to favor a man who is far from his

country, without resources and surrounded by temptations which draw him easily into crime. These considerations, if they do not lead into indulgence, lead to equity on the part of his judges. The want of confidence which was justified in barbarous times, and which was natural to a state of war, is not natural now."

Dr. Harburger, of Munich, observed that to consent to extradition it is necessary to establish the indispensable hypothesis that the penal law and the penal procedure of the States interested rest in general upon the same principles. It will prevent consequences which might be feared without, however, excluding at the same time the advantages of extradition, if legislation provides that the extradition of citizens may be denied in certain cases.

DISCUSSION.

Monsieur De Rode, director-general of the ministry of justice of Belgium, presented as reporter a general review of the arguments of the thirteen papers on this section, offering for action his conclusion expressed in the following proposition:

A State satisfies the demands of universal justice when it prosecutes its citizens or subjects charged with crime or offenses committed beyond its territory and who may be liable to extradition. It can not then be obliged to deliver its subjects to a State upon the territory of which the infraction has been perpetrated.

This conclusion was supported by Monsieur Gonzalo Cedrun de la Pedraja, a member of the high commission of prisons of Madrid. He pointed out the difficulties in the way of the extradition of subjects and supported the proposition of Monsieur De Rode.

Commander Nocito, professor and member of the Italian Parliament, observed that there are priciples of international law as well as of penal law which do not recognize the extradition of citizens. Penal justice is not only territorial, applying to offenses committed on the territory of a State, but it is also personal in its relation to the subjects of the State when they commit an offense abroad. It is for this reason that the codes of several nations punish the citizen who has committed offenses outside of his country, whether committed against citizens of his own country or against foreigners. It is just that the citizen as well as the foreigner should be obliged to observe the laws of his country, of the country which has assured to him civil and political rights when he dwells abroad, which has established consulates and embassies to defend him, and which is sometimes involved in international conflict for his protection. Thus the citizen is amenable to two penal codes when he commits an offense abroad—to the law of the country in which he resides, and the law of the country of which he is a citizen. There is no reason why the delinquent should not pay both of his debts. For the State which has a criminal in its hands the essential thing is

that the criminal should settle his account. This is the practice in international law; it is practiced also in civil law. Why then, when it concerns a criminal under the penal law of his own country, should the citizen be extradited, leaving the offense which he has committed against the laws of his own country unsatisfied? It is true that the debt is the same and that it concerns the same offense, but why this disrespect for the laws of his own country where he is better able to be heard by its judges? It may be said that the penalty will not produce its salutary effect on public tranquillity except in the place where the crime has been committed; but to-day public surety concerns the common well-being of nations, and a report of the crime, like that of the sentence, is carried far and wide by the press and the telegraph. England does not punish the offenses of its subjects when committed abroad. Under these circumstances it is easy to understand why it does not oppose extradition. But in a country like Italy, where there is a penal code which punishes citizens for offenses committed abroad, we can not by extradition abandon the exercise of penal justice to commit it to foreign tribunals. Penal justice is not only a right of the State; it is a duty. Very often the delinquent who has committed a crime abroad brings with him the proof of his offense, as in the case of stolen articles; but in other cases foreign countries never refuse the aid of the magistrates and their police to a State which asks it.

Mr. Prins, professor of the University of Brussels and inspector-general of prisons, supported the observations of Mr. De Rode. He remarked that the adoption of the system favored by Mr. Garçon would compel Belgium to abandon the neutrality which it ought to observe from a judicial as well as from a political standpoint. Before abandoning the system in actual operation its practical inconvenience should be pointed out in an average number of cases, and not in exceptional cases as cited by Mr. Garçon. Belgium has for centuries adhered to the principle of the non-extradition of its subjects; but it punishes its subjects when delinquent, if they have not been punished abroad. The practical end to be sought, the repression of crime, is thus attained, and as long as it is not proved that in general the non-extradition of citizens favors the impunity of criminals there is no need of abandoning the principle.

Senator Bérenger proposed the following: There is no ground for refusing the extradition of citizens when there is between the countries an equality in the guaranties accorded to the offender and similar legislation, and when the States concerned are not at war with each other.

Mr. Typaldo-Bassia, professor of the University of Athens, supported the theories advanced by Mr. Garçon.

Mr. Thiery, professor of the University of Liège, remarked that in delivering citizens to a foreign government a State might experience a

feeling of disquietude with reference to the protection to which they might be entitled; but it is to be noted that the extradition of citizens would never be effected except by virtue of a special treaty concluded between two countries, and such a treaty would not be made except when the laws of the two countries furnished the necessary guaranties. He approved of the extradition of citizens based upon special treaties, because he considered the judge of the place where the crime was committed as the natural judge of the delinquent and that no fear need be felt as to the individual protection of the extradited person.

The proposition of Mr. Garçon was then adopted, Mr. Bérenger and Mr. Typaldo-Bassia having withdrawn amendments which they had offered.

In the general session Mr. Garçon made the report, which was supported by Mr. Brusa, professor of the University of Turin and member of the Institute of International Law. The resolution proposed by the section was unanimously adopted as follows:

Between countries whose criminal laws rest upon similar foundations, and which may have confidence in their respective judicial institutions, the extradition of citizens would be a means of assuring the good administration of penal justice, since it is a desideratum of penal science that territorial jurisdiction should be appealed to as much as possible for judicial decisions.

Offenses Committed Abroad.

Third Question:

What principle should be followed in determining the limits of the competency of criminal justice as to the prosecution of offenses committed abroad or in cooperation with individuals, whether citizens or foreigners, residing abroad?

The third question, it will be seen, was closely related to that of the second, involving as it did the question of extra-territorial jurisdiction, and several of the reports treated the two questions together. M. De Rode, director-general of the ministry of justice of Belgium, presented an analysis of the reports. From some of the interrogatories brought forth in the reports it had been assumed that it was the intention of the commission, in proposing this question, to confine it to the extra-territorial jurisdiction of a State with reference to its own citizens. Some of the reporters, however, did not so understand this, and they considered the question whether a State might repress infractions committed abroad by foreigners. There is a particular category of infractions, said Mr. De Rode, which in general opinion justifies the exercise of extra-territorial jurisdiction whatever may be the nationality of their authors. They are such acts as threaten the surety, the well-being, or the public credit of the State. Most of the codes recognize the

right of the injured State to prosecute the guilty party, whatever may be his nationality and whatever may be the place where the crime has been committed. When attacked directly, the State obeys the interest of social conservation and security in pursuing the offender. The right to punish does not depend upon the presence of the offender upon its territory.

Senator Bérenger asked what authority a State possesses over a foreigner who is not even upon its territory.

Mr. De Rode quoted codes to show that it is not a new idea to take action against foreigners when they commit acts against the life of a State.

Mr. Dubois, judge of the civil tribunal of Baugé, said that the principle of the competency of the State, with reference to infractions committed beyond its territory, even by foreigners, should be sanctioned when it concerned the fortunes of the State, its public credit, or its security. The acts referred to, even if committed abroad, produce their consequences upon the territory of the country against which they are directed.

Mr. De Rode then called attention to infractions committed by the citizens of the State in foreign countries. It is generally admitted, he argued, that the State is competent to punish, in certain conditions, infractions committed by its citizens outside of its territory, if these infractions are of a nature to disturb social order. A citizen does not lose his citizenship in crossing the frontier; he remains subject to the laws of his country. Various questions arise, however, such as What are the infractions which justify the exercise of extra-territorial jurisdiction? Should these infractions be punished by foreign law at the same time as by domestic law? Should the prosecution be subject to the presence of the accused person upon the national territory? Should the prosecution be invalid by reason of a prosecution previously exercised abroad?

Conclusions respecting these points were framed by Mr. De Rode, four of which were adopted and the other two committed to the next Congress.

Miss Lydia Poët was named as reporter to the general assembly, and this accomplished lady gave a complete résumé of the arguments and conclusions of the first section. The resolutions adopted corresponded to those adopted by the section, and were as follows:

Conclusions:

> *Every State may punish according to its laws, crimes and offenses committed beyond its territory by citizens or by foreigners, whether as principals or accomplices, against the security, the well-being, and the public credit of the State. The prosecution need not be dependent upon the presence of the accused upon the territory of the injured State.*

II. Every State may punish, conformably to its laws, all other infractions of a certain gravity committed by its citizens beyond its territory, whether as principals or accomplices, even though the criminal act should not be punishable in the country upon the territory of which it has been committed.

Among these infractions should be included all those which might give rise to extradition. The prosecution may take place only if the offender is found upon national territory.

When the offense has been committed against a foreigner, the prosecution may be subject to the complaint of the injured party or of his family, or to an official notice given by the authorities of the country upon whose territory the offense has been committed.

III. The preceding rules are not applicable when the accused has been tried and acquitted in a foreign country for the same offense, or when, after having been condemned, he has served his sentence or has been pardoned.

IV. The penal law of a country where an offense has been committed is applicable, not only to that offense itself, but also to all acts of participation perpetrated in a foreign country or by foreigners.

The Indeterminate Sentence.

Fourth Question:

Are there classes of delinquents to whom the indeterminate sentence may be applied, and how may that measure be realized?

The subject of the indeterminate sentence was not a new one for the International Prison Congress. At the congresses of Stockholm, Rome, St. Petersburg, and Paris, it found a place in one form or another. It has also been the theme of discussion in the International Union for Penal Law and in the Congress of Criminal Anthropology. Though European as well as American jurists have been slow to accept it as a principle, the importance of the subject in the field of debate has received constantly wider recognition, and brought out an increased number of disputants. Perhaps no advocate of the indeterminate sentence supposed that it would receive unqualified acceptance by a body so justly and cautiously conservative as the International Prison Congress, whose deliverances have been remarkably free from immaturity and rashness. The traditional theory of a definite penalty for every offense against the criminal code is so strongly intrenched in statute and practice that to dislodge it is something like the task of removing Gibraltar. The indefinite sentence will not find full scope and acceptance until every vestige of the idea of retaliation or social vengeance disappears from our criminal codes and judicial administration. This is far from realization at present, either in Europe or the United States.

The Congress, however, generously recognized the fact that in the United States, the indefinite sentence has had, if not a wider discussion, at least a wider application than in Europe. In submitting the question for a report and debate, it was expressly stated that "the commission wished to offer to the penologists of the United States an opportunity to present the origin of the system, the legal measures which have been adopted, the manner of executing the sentence, and in short, to communicate to the Congress the result of the experience with this law in their country." Mr. Maus, chief of the bureau of the ministry of justice of Belgium, who as "corapporteur" had the difficult task of digesting the voluminous reports, said, "Our American colleagues have responded to the request of the commission with an eagerness which merits our gratitude. Their reports throw great light upon the question and give considerable importance to the discussion."

In addition to the American reports nine other reports on the subject were received from the following writers, namely: Messrs. Ugo Conti and De Sanctis, of Italy; Professor Gauckler, of the University of Nancy, France; Professor Van Hamel, of Holland; Mr. Junghanns, of Freiburg, Germany; Dr. Penta, of the University of Naples; Mr. Ruggles-Brise, of England; Prof. R. Saleilles, of France; Professor Thiry, of Liège, Belgium.

Though distinctly announcing himself as an opponent of the indeterminate sentence, Mr. Maus presented the arguments made for it with precision and fairness, and showed much skill in analysis and in the classification of views.

Briefly stated, the argument for the indeterminate sentence is founded on the insufficiency of the definite sentence, either as a repressive or reformatory measure. It does not protect society, neither does it contribute to the reformation of the prisoner, objects which ought always to be held in view in dealing with offenders. Further, it is impossible to proportion penalties with reference to the gravity of the offense. It is more rational to adjust them with reference to the character and condition of the offender and the needs of society. The advocates of the indefinite sentence propose that the duration of the imprisonment should not be fixed by the judge any more than the judge or the physician who commits a patient to an insane asylum should fix in advance the duration of his confinement, a procedure which would not protect society, nor would it restore the insane to health. It is quite as irrational to release criminals upon a day arbitrarily fixed by the judge wholly without reference to their fitness to resume their social duties. It is therefore important that the prisoner should be submitted to treatment which is reformatory in its character, and equally important that he should not be discharged from such a reformatory until he has demonstrated by his positive

attainments in prison that it is wise to release him. Even then his release should be conditional, and dependent upon his behavior under proper surveillance in society. He may be returned to the reformatory if he fails to fulfill the prescribed conditions. Of those who advocate the indeterminate sentence some place the emphasis upon the importance of the protection of society. Others place greater emphasis upon its relation to the reformation of the prisoner. Both recognize that these two ends may be combined, and that society is best protected through the reformation of the prisoner. The value of the indeterminate sentence in connection with a true reformatory system is shown in the incentive which it brings to bear upon the prisoner to work out by industry, application to study, and correct deportment his own release.

These familiar arguments for the indefinite sentence were met by familiar objections. Its opponents refuse to consider an indefinite sentence as in any strict sense a penalty. They adhere to the traditional notion that a definite penalty must be attached to every offense; but they fail to show how it is possible to construct any such scale of penalties exactly in proportion to the enormity of the offense. They insist on punishment as an instrument of justice without showing how justice can be executed through punishment, for nothing is more apparent than that, under the prevailing system, the contradictions and inequalities of so-called justice are innumerable. In saying, therefore, that the penalty should be proportioned to the gravity of the offense and the guilt of the offender, because that is the demand of justice, the advocates of the definite sentence have failed to show how any such ideal justice can be realized.

Another objection offered was the familiar one that the powers which have hitherto belonged to the judge of determining when an individual should be released would have to be confided to the administrative authorities. It is hard to see what loss there would be in this change. Certainly prison authorities and boards of administration are much more capable of telling when a prisoner may wisely be offered conditional liberation than is the judge who knows little of the prisoner and judges him only by the single act or the series of circumstances which entered into the crime. Another objection which has been advanced in the United States, as it has been in Europe, is that the abuse of the indeterminate sentence might lead to prolonged and unjust confinement. When combined with the previous objection, that the power to fix a limit should not be taken from the judge, this has led to the adoption in the United States of a form of the indefinite sentence under which the judge fixes a minimum and maximum period to the sentence; but to those who believe in the logic as well as in the practical value of the indeterminate sentence it is evident that with a proper reformatory régime the true function of the judge and the

jury is to decide simply whether the prisoner is guilty of the charge preferred against him. If so, he is to be submitted to a régime which is probationary and corrective and that can be so adjusted as to compel the prisoner to earn his release and restoration to society.

It was unfortunate that in the discussions of the Congress the theoretical aspect of the indeterminate sentence was separated from the practical. While the indeterminate sentence was discussed in the first section simply as a judicial measure, the question of the reformatory system was discussed in the second session as a question of prison administration. The two subjects inevitably belong together. The tendency in a body of jurists is to treat the indefinite sentence as an abstract question and to cloud the discussion with purely theoretical objections. There was even a tendency in one report to object to the word indeterminate as having a certain philosophical value, as if it could be in any way complicated with the question of determinism and free will! The question could have been better considered in its integrity when joined to the discussion of the reformatory system, of which the indeterminate sentence is an essential element.

Apart from the detailed presentation and résumé of the reports by Monsieur Maus, there was insufficient time in the section to afford debate, and the student who wishes a full exposition of the principle and effect of the indeterminate sentence must be referred to the series of able reports by different writers which furnished the basis of discussion.

In the debate which occurred in the first section remarks were made by Professor Thiry, of the University of Liège; Prof. Ugo Conti, of Bologna; Judge Martin Dewey Follett, of Mansfield, Ohio; Michel Heymann, president of the board of prison commissioners, New Orleans, La.; Mr. Engelen, president of the tribunal of Zutphen, Netherlands; Mr. Typaldo-Bassia, professor of the University of Athens, Greece; Judge Simeon E. Baldwin, of New Haven, Conn.; Senator Bérenger, of France; Mr. S. J. Barrows, corresponding secretary of the Prison Association of New York; Monsieur Prins, professor of the University of Brussels; Dr. A. Bezerra da Rocha Moraes, tribunal of justice, Para, Brazil; Mr. de Borowitinoff, of the Imperial University of St. Petersburg, Russia.

The following conclusions drawn by Mr. Maus were adopted in the section and also in the general assembly without debate.

Conclusions:

With reference to the application of indeterminate sentences there is ground for distinguishing penalties properly considered, educative measures, measures of protection and public safety, and the pathological treatment of delinquents.

(*a*) *As to penalties, the system of the indeterminate sentences is*

inadmissible. It may be advantageously replaced by conditional liberation combined with a progressive cumulative sentence for recidivists.

(*b*) *As to measures of education, protection, or of safety, the system of indeterminate sentences is only admissible through restrictions which involve the abandonment of the principle itself. It will be more logical, more simple, and more practical to preserve the system of prolonged imprisonment as modified by conditional liberation.*

(*c*) *In case of irresponsible delinquents and those affected with mental disease, the duration of restraint must necessarily be indeterminate; but measures taken with reference to this class have no penal character.*

The principle of the system being rejected, it seems unnecessary to examine the second part of the question, which concerns the organization of indeterminate sentences.

THE REPRESSION OF BLACKMAIL.

Fifth Question:

What measures should be recommended with a view to repress offenses generally known under the name of blackmail?

Should a special procedure be established for the prosecution of this class of offenses?

Eight reports were presented upon this question, and Mr. Typaldo-Bassia, who originally proposed this question for the programme and was the author of one of the reports, was made co-rapporteur. Under his hand the eight reports were faithfully summarized, and a draft of conclusions was drawn by him and submitted to the section. This summary showed the great diversity of forms under which blackmail may exist and the necessity of protecting its victims. Mr. Tarde, professor of the College of France, dwelt upon the gravity and frequency of blackmail perpetrated by the press against public men, not in the extortion of money, but in the defamation of character in case they do not vote or abstain from voting as they are bidden by these journals. Mr. Typaldo-Bassia agreed with Professor Tarde as to the pressure which is often exerted on legislative members, and which, though denominated corruption, is but another form of blackmail and eminently criminal. Mr. Evangoulow, attaché to the chancery of the imperial council of St. Petersburg, favored a law which shall punish more rigorously blackmail exerted through the press. He favored also the trial of those offenses by closed doors, a power which is only conceded in the majority of countries when publicity would be dangerous to public order or to public morals. He urged that the trial should be secret when publicity would be prejudicial to the reputation of the victim.

Mr. Charles Felton (whose report was published in Penological Questions, Fifty-fifth Congress, Senate document 158) showed that legislation in the United States is not uniform and calls attention to the diversity of the definitions and of penalties in the different States with referense to this offense. He cited many interesting examples of blackmail. He did not think, however, that there was any reason for applying a special legal procedure to the treatment of blackmail, regarding the common law as sufficient for this class of offenses. He placed confidence, not in the efficiency of new laws for its repression, but rather in moral education, the gradual progress of civilization, and the ethical influence exerted by society.

Mr. Ludwig Fuld, of Mayence, Germany, showed that in Germany, as in ancient Rome, resort was frequently had to charges for pretended crimes of lèse-majesté for the purpose of obtaining sums of money from persons thus denounced. He remarked that to prove and repress such acts is almost impossible. Supporting himself by the maxim of Montesquieu that "human laws enacted against imaginary crimes often in reality provoke them," he showed that legislators have made the mistake of introducing into their criminal codes repressive provisions concerning certain infractions of morality which stimulate the practice of blackmail. He thought that the prosecution of such offenses by the State should be given up. But with reference to blackmail itself he would enact severer penalties.

Mr. A. Berlet, procureur of the Republic, of Bougé, France, urged that the definition of blackmail should be more comprehensive, so as to cover all forms of its operation. He called attention, as did the co-rapporteur, to that form of extortion which consists in threatening a person with an action at law if he does not advance a certain amount of money.

Mr. Ch. Thuriet, president of the civil tribunal of St. Claude F (Jura), France, gave an account of the state of legislation in France, Belgium, Switzerland, the Netherlands, Hungary, and in Italy, in relation to the subject. He showed that repressive measures had been ineffective. He did not share, however, the view of those who would transfer blackmail from the category of misdemeanors (délits) as it is in France to that of felony (crimes). The French law now permits an imprisonment of five years for this offense, which he considers a sufficient penalty. He proposed more rigor, however, in dealing with offenses of the press, which he characterized with severity.

Mr. G. Aubéry, of Puy-de-Dôme, France, declared that the press as an instrument of blackmail is more dangerous to society because its authors disguise themselves under the mask of judges invested with a high social mission, but he observed that the diminution of crime and offenses did not depend upon the severity of the laws. He concluded that it is through the feebleness and impotence of judicial investigation owing to limited judicial power that the greater part of these acts of blackmail remain unpunished. He did not believe in the crea-

tion of new laws nor in enlarging the definition of blackmail, but in the better execution of existing laws.

The discussion which followed turned on various points enumerated in the preceding analysis.

Hon. Simeon E. Baldwin, of New Haven, Conn., delegate of the United States urged that the Congress should avoid, as far as possible, the expression of conclusions which are not of universal application. In the United States, constitutional protection is accorded to the liberty of the press and to the principle of the publicity of judicial trials. In consequence, as a representative of the United States, he was not able to favor the conclusions advanced bearing on these points.

Mr. Bertrou, advocate of the court of appeals of Paris, also indicated the dangers which might arise from suppressing that primordial guaranty of justice, the publicity of trials.

Senator Bérenger, of Paris, said that blackmail through the press is becoming intolerable. It is a crying abuse against which the whole world is rising. He favored the inclusion in the criminal code of this form of blackmail.

The discussion in the section was carried into the general assembly, and with slight modifications the conclusions formulated by Mr. Typaldo-Bassia were adopted.

Conclusions:

Under the designation of blackmail criminal codes should specify extortion or attempts at extortion, especially through the press or through a purely annoying judicial process, either to obtain sums of money or to secure some advantage.

(*2.*) *Blackmail should be considered as a misdemeanor* (*délit*), *and as such referred to tribunals having jurisdiction of such offenses* (*tribunals correctionels*), *which may pronounce a penalty of imprisonment and a fine.*

(*3.*) *Judges should have the liberty of holding court with closed doors upon the demand of the injured party when the trial might injure his reputation.*

(*4.*) *Publication of the proceedings of a secret trial is forbidden.*

SECOND SECTION.

PRISON ADMINISTRATION.

President: J. Simon Van der Aa, LL.D., general inspector of prisons at The Hague, Holland.

Vice-presidents: Mr. D. Drill, conseiller d'Etat, St. Petersburg, Russia; Mme. Dupuy, Paris, France; Friedrich von Engelberg, Baden, Germany; Ange-Valdemar Severin From, Denmark; J. B. Gibbons, president of the Prison Commission of Ireland, Dublin; J. V. Hurbin, director of the penitentiary at Lenzburg, Switzerland; Dr. Dobri Minkoff, Sofia, Bulgaria; Shigerijo Ogawa, Japan, director of the penal service of Japan; Maj. Carl L. Palm, of Stockholm, Sweden.

Secretary: Ernest Bertrand, LL.D., Brussels, Belgium.

Associate secretaries: Messrs Belym and Borgerhoff, of Brussels, Belgium.

Medical Service in Prisons.

First Question:

(*a*) *Upon what principles should the sanitary and medical service of penal establishments be based?*

(*b*) *How may the regular medical direction of the physical and mental health of prisoners be assured?*

(*c*) *How far may the authority of the physician extend to the solution of questions relating to the diet, clothing, and labor of prisoners and to the punishments which may be inflicted upon them?*

Mr. Victor Delmarcel, physician of the prisons of Louvain, Belgium, the co-rapporteur, had sixteen reports to digest and to summarize, showing that prison physicians responded with interest and willingness to the appeal for professional opinions. It was evident, too, that doctors could agree upon the essential elements of professional service in penal establishments. It is not difficult to imagine how the physician of a penal institution, with an extensive array of medicines at his command, might add in no small degree to the physical punishment of the prisoners under his charge were he so disposed. It is interesting and reassuring to note that with great unanimity prison physicians regard their work as curative and regenerative. The penal system has for its basis only the deprivation of liberty. It is the mission of the physician, says Mr. Delmarcel, to secure to the prisoner all the

therapeutic means necessary to cure him if he is sick, and to prevent by rigorous means his exposure to contagious diseases. The physician should have but one end in view, and that is to return to society stronger and purer the body which has been debased by debauchery and the soul soiled by vice. Under the inspiration of this idea the sanitary service will secure from the hygienic point of view better conditions for the construction of prisons, their ventilation, aeration, warmth and lighting, and disinfection. All measures dictated by scientific and practical hygiene would be employed to avoid the dangers of infection to which those in prison are particularly exposed. Against contagious maladies isolation and disinfection must be practiced.

Attention was called in the reports and also in the discussion to the dangers of tuberculosis, which is acknowledged to be a great scourge of prison life.

Professor Penta, of Naples, urged that prison physicians should not only devote themselves to the prevention and cure of sickness, but also to criminal anthropology in order to study and classify the tendencies of criminals. Likewise, Dr. Chapin, of Philadelphia, said that the prison physician should be familiar with criminology and recognize the distinction between incorrigible and occasional criminals.

Emphasis was also laid by some of the reporters upon the necessity of the prison physician being an alienist, or at least capable of diagnosing the most common mental maladies of prisoners, or of making a distinction between sanity and insanity. For the more difficult cases recourse must be had to experienced alienists accepted by the Government.

More variation of opinion appeared in regard to the domain of authority of the physician in the prison, but it was generally agreed that in addition to the independent authority of the physician in all cases of sickness, he should be consulted by the director in matters affecting the health of prisoners, since, as Dr. Chapin, of Philadelphia, has pointed out, it is easier and more economical to prevent moral or physical evils than to cure them.

Dr. Dausse, physician of the prisons at Bordeaux, spoke of the fearful battle undertaken in the whole civilized world against that terrible disease, tuberculosis. Prison doctors know what ravages it wreaks, not only upon prisoners, but also upon officers and attendants. He was of the opinion that the attention of public authority should be directed anew to this disease and that penitentiary hygiene should be especially organized to combat it.

Professor Thiry, professor of the University of Liège, thought that tuberculous cases should be treated in special asylums, because it is not possible to give them adequate treatment in prisons.

Mr. Albert Rivière, the co-rapporteur, supported the president in

his observation that the treatment of a special malady would carry the discussion beyond the limits defined by the programme, and thought it better to reserve the discussion of this subject for the larger opportunity which might be furnished by the next Congress. Meanwhile, tuberculosis cases in prisons should be sent to infirmaries and should be the subject of special care.

A question which, owing to the large standing armies existing in Europe, had significance in the Congress was whether military physicians, either active or retired, should be engaged in prison service. Since in the United States the regular army is extremely small, this question has little importance for American readers.

The whole spirit and final result of the prolonged and animated discussion on this important question were well conserved by Mr. Rivière in his draft of conclusions, which were adopted in the section, and with slight amendment in the general assembly.

Conclusions:

I. *The medical and sanitary service of penal institutions is secured in conformity to the special regulations of each country by doctors of medicine, either civil or military, in active service or retired, possessing special knowledge of psychiatry. They should in doubtful cases consult with medical alienists acceptable to the administration.*

The appointment of a medical interne exclusively attached to the establishment presents advantages for large penal establishments in certain countries, but the application of this measure need not be general.

A special régime may be instituted for the sick and incapable. Aged or infirm prisoners, incapable of labor, may be assigned to special quarters, where they may be submitted to a special régime.

II. *For long sentence prisoners individual directions, covering all information relative to physical and mental health, should be prepared. To this end periodic visits should be made to all prisoners, having in mind at the same time their moral elevation (through lectures, tracts, anti-alcoholic tables, etc.).*

The doctors should direct his attention to the prevention of contagious and epidemic diseases, and notably of tuberculosis.

It is desirable that he should be present at the meeting of the officers.

III. *The physician is independent in everything relating to the medical care of the sick and to the régime established for that treatment. By way of consultation, advice should be asked in matters relating to the construction of buildings as in matters of hygiene (food, clothing, labor, punishments, etc.).*

Reformatories in the United States.

Second Question:

> *With relation to delinquents still young, is there ground for recommending a system of reformatories such as has been organized in the United States of America?*

Six reports were presented on this question, namely, by Mr. Bailly, director of the École de Bienfaisance de l'État at Moll, Belgium; Mr. Michel Kazarine, attaché of the ministry of Russia; Professor Mittermaier, of Heidelberg, now of the University of Bern, Switzerland; Mr. Passez, advocate of the court of cassation of France; Mr. Ruggles-Brise, chairman of the English prison commission; and, under the editorship of Samuel J. Barrows, a full report on the reformatory system in the United States, in which fourteen writers described the general and special characteristics of the system as developed in different States (Fifty-sixth Congress, first session, House Doc. No. 459). In view of this full exposition, it seems unnecessary to present to American readers any further details from an American standpoint.

Mr. Bailly was made co-rapporteur. He objected to the large population of the Elmira Reformatory, believing that it was impossible for the director to exert his personal influence effectively in a population of 1,500. He also criticised the fact that the average duration of the imprisonment of the inmates did not admit of satisfactory and thorough instruction in the trades to which they were assigned. A third point of criticism was that in the military organization of the reformatory inmates are chosen as officers, and thus exercise authority over their fellow-prisoners. Mr. Bailly prefers to have all prisoners placed upon an equality, and the only favor or preference he would grant would be to accord to the meritorious an earlier liberation.

Mr. Bailly, the co-rapporteur, concluded his brief analysis of reports by proposing as the conclusion of the congress that the second section, while taking into very serious consideration the organization of reformatories of United States of America, holds that the results as known at the present day after an experience of hardly twenty years, do not sufficiently justify, without more profound study, the adoption of that system in the countries of Europe. It expresses the hope that the Government of the United States will communicate to the International Prison Commission all the documents capable of putting a succeeding congress in a position to pass a more positive vote.

Mr. Michel Heyman, of Louisiana, urged that the principle of reformatories is only a rational step in advance which had been made in the United States, and he believed that after full reflection they would join in recommending such institutions for all the countries of the world. "We are not groping in the dark on this subject in the

United States. We know that the reformatories are a success for young men who commit their first crime. Such young men should be considered as morally sick and should be treated accordingly. They should be committed not so much for punishment as for correction. It is no protection to society to discharge a man from prison worse than when he went in; that only tends to make him a recidivist." He referred to the fact that the indeterminate sentence is an essential element in the reformatory system, and that no intelligent physician would accept the responsibility of curing an invalid in a definite number of days.

Mr. Veillier, director of the prison at Fresnes, supported the conclusions of the co-rapporteur, for he considered it impossible to propose to the congress the immediate introduction in Europe of a system certainly very ingenious, but whose results, if he had been well informed, had not been sufficiently verified. He asked the representative of the United States, after having described a system remarkable in all respects, to place before them its results with reference to recidivism. He declared that he was not hostile to the principle of reformatories, but before generalizing upon them we must permit time to demonstrate their utility and efficacy. The States of Europe during many years have developed the separate system (le régime cellulaire) with satisfactory results. They should not renounce it without grave reasons, and only after their error had been demonstrated.

Mr. Engelen, president of the tribunal at Zutphen, Holland, thought that the great difficulty in generalizing concerning the reformatory system is that the system is in some sort associated with the personality of Mr. Brockway, the director of Elmira, N. Y. On one side the complaint had been made that these reformatories were not sufficiently severe; on the other hand it had been asserted that many prisoners prefer to go to a prison under the old system than to be committed to Elmira, because under the old system they knew when they would be placed at liberty.

Mr. Heyman, in response, said that a prisoner's satisfaction with Elmira depended much upon his conduct. Those who do not observe the rules are treated with rigor and do not wish to return to that prison. Power of liberation is not confided to the director, but to the board of managers of the institution, and the prisoner is put to liberty only on certain conditions.

Mr. S. J. Barrows, of the United States, said there are some who admit that the reformatory system in America has obtained a success which deserves attention and perhaps imitation, but they ask if that system can be applied in Europe. In answer he would invoke the experience of Italy. A few years before he had visited the institution for boys at Tivoli, and he had found there a veritable reformatory, conducted with undoubted success by a wise and noble man. The

previous year he visited the institution for paternal correction at Pisa, of which Mr. De Sanctis is the director. He received a profound impression of the value of that institution. Everywhere one felt the influence of a good system and of a man of mind and heart. The instruction is well organized. Mr. De Sanctis has himself written books to instruct his boys in the principles of morality and in social duties. The régime of the establishment is sound and healthful. There is also at Milan an institution which resembles reformatories for boys in the United States. Neither the severity of the discipline of Elmira nor the indeterminate sentence is to be found there; but after having seen the institution at Pisa the speaker had said to himself that if it is possible to have such a reformatory for boys of from 15 to 21 years, it would be equally possible in Italy to conduct with success institutions for boys of from 20 to 30 years—for it is necessary to recognize the fact that legal minority is absolutely arbitrary, and that there are individuals of 30 years who are truly minors in all which concerns moral and intellectual development. At Elmira the average age of prisoners is about 22 years. Mr. De Sanctis has presented a report in favor of the indeterminate sentence. If the Italian Government would adopt the indeterminate sentence and increase the age limit it would have at Pisa an institution corresponding in its essential features to American establishments, but with a character completely Italian.

Mr. von Engelberg, director of the penitentiary of Mannheim, said that according to reports those placed on conditional liberation were under surveillance for six months or a year. That was not sufficient, according to his opinion, to show that an individual had become a law-abiding citizen and was able to resist temptation. He wished to know if there were any statistics in regard to recidivism of the inmates of reformatories.

Mr. Barrows said there were no general statistics of recidivism in the United States, but that the director of the Elmira Reformatory, Mr. Brockway, had made a special inquiry covering a period of some ten years with reference to the inmates of that institution who had received an absolute discharge. He had concluded that about 80 per cent of them had become good citizens.[a]

Mr. Albert Rivière, secretary-general of the Société Générale des Prisons of France, said that Europe has for ninety years been study-

[a] In my remarks on the next question treating of the cellular system (p. 52), I have called attention to the fact that the advocates of that system freely acknowledge that they can not rely upon official statistics to demonstrate the value of penal institutions of that character. While Mr. Cassidy, representing the cellular system in the United States, truly declares that American statistics are of no value as bearing on the question of either the reformatory or the cellular system, Mr. Bertrand, the co-rapporteur, regrets the lack of comparative statistics in Europe.—S. J. B.

ing prison problems, that they had developed a system of correctional education, which they were trying to perfect every day. They could not be expected to disregard all this history and search for something absolutely new. What they wished to know was if there were any good principles in the American system which might easily be applied in Europe. Mr. Passez had called attention to three advantages in the reformatory system, namely, the avoidance of mutual corruption, the marking system, and a better personnel, and urged their adoption in Europe. But the cellular system also prevents corruption if it is intelligently applied, and a system of marks is imposed in France by the law of 1885, and they also demanded a select personnel. He thought the American system was less interesting in its principle than in its details, and especially in the remarkable care with which trade instruction is organized for young men.

The president of the section, Mr. Simon van der Aa, said that the organization of technical instruction was one of the marked characteristics of the American system. In Europe there was trade instruction for juvenile delinquents in most countries, but a neglect to provide it for adults. It is different in America, where the reformatory receives those up to 30 years of age and submits them to an apprenticeship the same as for younger inmates.

Mr. Rivière said that on the contrary professional instruction was organized in the French and Belgian prisons for adults as well as for young delinquents. Perhaps they did not always succeed, but this instruction was certainly one of the objects in view. He believed that this instruction should be more and more improved, and in doing so they would find themselves in accord with the resolutions of the recent international Congress of Prisoners' Aid Societies at Paris.

The president remarked that he was influenced mainly, but not entirely, by the state of things existing in Holland. According to his impressions adult prisoners were made to work in European prisons, and attempts are made in some countries more than in others to render this labor as instructive as possible, but it is not a distinct and special aim to teach such prisoners different trades, theoretically and practically by trade schools and other means, such as in the American reformatories, where such instruction is an essential feature of the system.

Mr. Barrows said that the American delegates did not ask them to abandon that which they had created in Europe. They simply asked that the system of European correctional and charitable schools might be developed and applied to adults, while giving to each organization its own national character. They had been inspired in the United States by the Irish system and by the organization of European houses of reform, which have so often produced good results. It was not necessary to efface them, but to develop them.

Mr. Engelen, of Holland, thought that Elmira had a great advantage in respect to work. According to the reports there were in 1895 some thirty-four trades which individuals might learn, so that on leaving prison each one might gain his bread, and thus avoid falling again into crime.

Mr. Maurice, president of the tribunal at Tours, was impressed with the system which teaches prisoners a trade in reformatories, and if it can be affirmed tnat the prisoners learn easily and find occupation on release and are reformed, the system is excellent, but it is impossible to secure definite results without statistics.

Mr. Skousès, formerly minister of foreign affairs of Greece, referring to the remarks of Mr. Barrows, that the principles of American reformatories might be applied to European correctional institutions by extending the age from 20 to 30 years and adopting the indeterminate sentence, said that would mean a complete transformation of the system which governs nearly all the prisons of Europe, because in Europe when they speak of maison de réform, maison de correction, reformatories, they understand institutions which receive youths from 15 or 16 years to 21. If that age should be extended to 30 years, or even to 35, which has happened in the United States, then attempts would be made to extend that limit to 40 or 45 years. It would be necessary to take into account climatic, physiological, social, and other differences; for men do not develop in the north and in the south in the same manner and in the same time. Mr. Barrows had informed them of the investigations made by Mr. Brockway, showing that from 75 to 80 per cent of those liberated live as good citizens. That is certainly a very satisfactory result. But Mr. Barrows himself had added that it was not based upon official statistics, and if discharged prisoners from Elmira, on leaving the reformatory, choose to go to one of the forty-four other States of the Union, beyond the jurisdiction of the director of that institution, how does the director know of their conduct in their new residence? He thought there was a misunderstanding as to the extent in which trade instruction is carried on in the prisons of Europe. In all the prisons he had visited, from Sweden to Italy, and from England to Russia, prisoners are made to work, in the hope of teaching them a trade which will insure them support.

Madame Dupuy, general inspector of the female prisoners' establishments of France, said that in that country the reform schools do not receive children above 12 years of age. They are pupils; they are treated according to their intelligence and ability, their tastes and the situation of their families. If they are of city origin they are submitted to an apprenticeship. In Besançon, for instance, there is a branch of the reform school of Frasnes-le-Château, and every day forty or fifty young boys are sent out to work under different patrons, returning to the institution for their meals and lodging. When the

apprenticeship is finished they are placed among the patrons as young workmen, or return to their families if the latter are worthy. Children of rural origin are placed in the country where they do not lose the protection of the school. Others marry in the vicinity and also at Paris and succeed well.

M. Albert Rivière said that the principal information which may be derived from the American system relates to technical instruction. In Europe that aim is certainly not placed in the front rank. It is a mistake. Paying a tribute to the work of their American colleagues, he proposed to modify the conclusions so as to recognize this fact.

Mr. Bailly accepted this proposition, but the president remarked that there were other points interesting to note and it might be preferable not to make an exception of any.

The section adopted the conclusions proposed by the co-rapporteur, and in the general assembly these conclusions were accepted without further debate.

Conclusions:

This section, while taking into very serious consideration the organization of the reformatories of the United States of America, considers that the results known up to the present time can not be regarded as sufficient to justify, without more profound study, the adoption of that organizatian in the countries of Europe.

It expresses the hope that the Government of the United States of America may communicate to the International Prison Commission all documents capable of enabling a succeeding Congress to express a more conclusive opinion.

Cellular Imprisonment.

Third Question:

Has experience, up to the present time, with the system of cellular confinement (whether as the sole method of executing all sentences of imprisonment or of certain sentences only, whether imposed during the entire course or during a certain period of the sentence), yielded results which permit us to determine the value of that régime, and of each one of its different modes of application, especially from the point of view—

(a) Of its influence on the state of criminality and of a relapse into crime in the countries where it is wholly or partially applied.

(b) With reference to its consequences upon the moral and physical health of persons who are subjected to it during a term more or less prolonged.

The system of cellular confinement, called also the "solitary system," has been in vogue in Europe for many years, and has been

developed to a high degree in Belgium. It was fitting, therefore, in the country where the Congress was held that an inquiry should be made as to the general efficiency and results of that system. The question, however, was not limited territorially, for some of the best illustrations of the cellular system are found in France, Holland, Switzerland, and Sweden. Twelve reports covering the countries named were submitted. As there is but one example of the cellular system in the United States, but one report was presented from this country, and that bore the name of the venerable and ardent advocate of that system, the late Michael J. Cassidy, for many years warden of the Eastern Penitentiary at Philadelphia. Nearly all of the reporters were likewise directors of penitentiaries established either wholly or in part on the cellular system.

The essential feature of the cellular system is that it provides a separate cell for each prisoner in which he is to sleep, eat, and work during the entire term of his imprisonment. He has daily communication with the officers of the prison, moral and religious instruction; his cell is large and comfortably furnished, and he has his yard out of doors in which to take his daily exercise, but he has no association with other prisoners. As the question above suggests, the cellular system is sometimes used for the entire period of the sentence, but in some countries the practice is to limit the length of cellular confinement and to follow it by a period in a congregate prison. The reports presented were not descriptions of the system, with which the members of the Congress were supposed to be reasonably familiar, but rather arguments in its favor and a discussion of results.

Mr. Ernest Bertrand, assistant director of the prison at St. Gilles, Brussels, was made co-rapporteur. Before reading his report he paid a graceful tribute to the memory of Mr. Cassidy, warden of the Eastern Penitentiary, who passed away before the opening of the Congress. Though he was not familiar with the details of his life, he had attentively read his works and was convinced that Mr. Cassidy was profoundly devoted to penological science.

Mr. Bertrand began by frankly acknowledging that the statistics on this subject are still very imperfect and very divergent in different countries in spite of the propositions which have been made to systematize them, especially at the Congress of St. Petersburg. Besides, prison work is of too short duration to be summed up in an arithmetical table. Its impalpable results are dispersed in innumerable individual lives. Further, as was observed in the report of the general direction of prisons in Belgium, the movement of crimnality and of relapses into crime is effected by multiple causes, and the influence of a prison régime upon the development of criminality and the prevention of relapses must not be exaggerated. In fact, said Mr. Bertrand, to seek in the statistics of crime an absolute criterion of the value of a

prison system would be to confer a warrant of perfection upon penal legislation, and to disown criminal sociology and anthropology.

This just recognition of the insufficiency of statistics to demonstrate the value of the cellular or any other prison system was in marked contrast with the insistent demand in the same section for statistics as a demonstration of the value of the reformatory system. It will be a long time before any statistics concerning reformations or relapses can be secured in the United States which are uniform and reliable; and the want of confidence which the partisans of the cellular system in Europe show in the value of statistics as a demonstration of cellular imprisonment is not encouraging to those who ask us chiefly to rely upon official statistics. Mr. Wieselgren, director-general of the prisons of Sweden, justly said in his report that to determine in what measure resolutions formed in prison have been kept outside it would be necessary to follow the life of each prisoner, which is almost impossible. It was this method which was adopted by Mr. Brockway in arriving at his conclusion as to the probable number of those who became good citizens after discharge from the Elmira Reformatory. (See discussion of preceding question, p. 49.) Americans, we believe, would certainly make a mistake if they made their judgment of the value of the cellular system to depend mainly upon shifting and uncertain columns of penal statistics.

So far as the statistics of relapses are concerned, the best showing in the reports offered is made by Sweden. Before the establishment of the cellular system in that country in 1840–1842 the proportion of relapses was from 62 to 79 per cent. In the last decennial period it has fallen to 31.4 in the establishments organized almost entirely on the principle of separation by day and by night, while it remains 77 per cent in the houses of correction, serving for the confinement of vagabonds which are on the congregate plan. The point left uncertain by the figures, however, is whether taking the class of tramps in our workhouses, in which the most persistent repeaters are found, and comparing their recommitments with those of the inmates of the best congregate prisons or reformatories, as great a disparity in number of repeaters may not be found.

On the other hand, Mr. Darrouy, of Toulouse, regards cellular imprisonment as inefficacious against criminality and criminal relapses. He regards the real cause of this, however, to be short sentences. In two cellular prisons under his control the average sentence is but twenty-three days.

A question not sufficiently treated by the reporters was whether cellular imprisonment should be limited to sentences of one, two, three, or four years, or whether it could safely be prolonged to ten years or even longer periods. While most of them speak with confidence and even with enthusiasm of the cellular system to the degree that they

have seen it applied, we are left somewhat in doubt whether it should be applied during the whole period of a sentence or combined with the congregate system as in some countries.

The only discordant note among the reporters is given in the report of Mr. Léon Barthès, instructor of the house of education of La Petite-Roquette at Paris, who holds that individual incarceration rarely produces salutary effects. His observation has been limited to young prisoners, and Mr. Bertrand remarks that there are few who advocate the cellular system for delinquents of that age.

In Belgium crime is said to be on the increase, but this is a fact which is to be noted not only in countries where the cellular system is exclusively operative, but in other countries where it has not been firmly established. Figures, too, in relation to the increase of crime, depend so much upon police vigilance and the influence of new laws and the operation of short sentences, through which the same individual is included many times in the same enumeration, that it would be hazardous to impeach any prison system upon such statistical evidence.

While it was therefore difficult to secure evidence as to the effect of the cellular system upon crime as a whole, the testimony of the reporters concerning its effects upon the physical and mental health of prisoners was more precise and positive. Diseases of the respiratory organs consigned 25 per cent of the inmates to the hospital, but, on the other hand, the great advantage of cellular imprisonment in epidemic and contagious diseases is recognized. It has been assumed that cellular imprisonment would lead rapidly to insanity and suicide. Doubtless it depends somewhat on what kind of cellular imprisonment it is. But the facts presented by the physicians dispel the idea that either disease is a frequent consequence of such imprisonment. Of 436 prisoners condemned to life sentences in the last twenty-five years in the cellular prison of Louvain, 5 per cent only have needed to be sent to insane asylums, and in some of these incipient mental disease was doubtless present at the time of or before the commission of their crimes. It was recognized, however, by some reporters that cellular imprisonment is not compatible with certain exceptional constitutions and with certain pathological states, and that it is desirable to have some prison or quarters organized on the congregate system for the confinement of these exceptional prisoners eliminated by the cellular system.

Mr. Verhaegen, chaplain of the Central Prison at Louvain, gave strong personal testimony as to the moral influence of cellular imprisonment.

Conclusions:

The Congress holds that the results of the cellular system as to criminality and relapses into crime, so far as they have been veri-

fied by experiment, respond to the expectations of the promoters of this form of imprisonment to the degree that is possible in prison administration.

The result of the experience in Belgium shows that cellular imprisonment even prolonged ten years or beyond, assuming the previous subsequent elimination of certain elements, has no more unfavorable effect upon the physical or mental health of prisoners than any other mode of imprisonment.

The Treatment of Recidivists.

Fourth Question:

Should recidivists be subjected to a disciplinary régime more severe than that applied to prisoners sentenced for the first time, and what should be the nature of this régime?

Fourteen reports were presented upon this question, and Mr. Cornez, director of the prison at Verviers, Belgium, was made co-rapporteur.

The term "recidivist" is so commonly used among penologists as a technical term for the "repeater" or "rounder," the more familiar designation in American prisons, that it scarcely needs translation. It is a general term whose meaning is without dispute when applied to the unfortunately large number of those who are committed to prison again and again for the same or for different offenses. There is some difference of opinion as to whether the term should be applied to a second offender. But the Congress used the word in its broader sense as applicable to all those who having served a sentence in prison subsequently return to it, and the object of the question was to determine whether such recidivists should receive a different course of treatment and essentially a more severe one than that to which first offenders are subjected. The reports on this question were written by some of the most experienced of the prison directors of Europe.

The subject was not wholly a new one to the Congress. It had been treated under different aspects at previous meetings. Complete unanimity was not attained. A majority of the writers, however, seemed to favor a difference in the régime for the first offender and in that for the recidivist. On the other hand, it was urged by a few that the more logical and more practical way was to make the régime in prison for the first offender so severe within the limits of common humanity that it would indeed deter the prisoner from committing another offense and thus becoming a recidivist.

Mr. Bertrand, assistant director of the prison at St. Gilles, presented considerations which show that the actual régime is for the most part incapable of increased severity without becoming exces-

sively rigorous. He would admit increased severity where it could be applied without cruelty, provided that it could also be extended to first offenders. Prof. Joseph Orano, of the University of Rome, was absolutely opposed to any increase in the severity. He departed sufficiently from the question to advocate preventive rather than repressive measures in the treatment of crime.

Most of the writers recognized a difference among persistent offenders as to their degree of perversity and responsibility, and many concluded that the régime should be sufficiently elastic to recognize these differences.

Mr. Atthalin, writing in the name of La Société Générale des Prisons of France, expressed this view in arguing that no increase of penalty should be imposed upon recidivists in a purely automatic and impersonal manner. A fixed rule was less fortunate than a recognition of the character of the individual and the causes which had determined his relapse into crime.

The question was also raised to whom should belong the right to order that a sentence in any particular case should be served under a more severe régime—should it be determined by judicial authority or by the prison administration? Mr. Atthalin argued in favor of resting authority in the judge.

As to practical suggestions, some advocated cellular imprisonment; others the creation of special quarters in congregate prisons. Others argued against the congregate system as tending to produce the condition of recidivism it was supposed to correct.

As to the details of a more severe prison treatment, some of the writers would absolutely interdict all visits to recidivisits; others would diminish the frequency of visits. Mr. Veillier, director of the prisons at Fresnes, was opposed to any restriction whatever. The same diversity of opinion was shown in regard to the correspondence of prisoners, and even with reference to the use of the library, which in some prisons seems to be regarded as a means of amusing prisoners rather than of inspiring and instructing them.

While the deprivation of special favors and privileges was advocated for recidivists, nearly all the writers disapproved of any further restriction as to diet, believing that the ordinary dietary is sufficiently strict, and incapable of further diminution without cruelty. Certain countries have what is known as the canteen, at which prisoners may apply a part of their earnings to add variety and pleasure to their dietary. Some writers would deprive recidivists of this opportunity. There were those who favored the complete repression of the canteen. In Italy the canteen may be said to be almost a necessity to supplement the ordinary bill of fare, which was adopted with the canteen distinctly in view.

The same view prevailed with reference to the bedding of prisoners, the controlling opinion being that it should be of a kind to insure the prisoner's repose, and that only superfluous luxury should be eliminated.

The reporters favored generally the subjecting of recidivists to fatiguing labors with a minimum daily or weekly task, taking away from them the choice of occupations. Some would permit the prisoners to retain their own trades. The labor, however, whatever it be, should be sufficiently severe and arduous to produce a deterrent effect, and failure to complete the task, it was urged, should be followed by disciplinary treatment.

In Europe the custom generally prevails of according to prisoners a portion of their earnings during imprisonment. A part of this allowance is available to the inmate during imprisonment; a part is retained until his discharge. Certain writers favored withdrawing from recidivists that portion of the allowance which they are now allowed to spend during their confinement. One writer would withdraw the whole allowance. This was opposed by other writers, for the reason that it would deprive the prisoner on his discharge of the support which his prison earnings furnish while he is seeking to reestablish himself in society. One writer proposed that earnings be withheld and only paid to the released prisoner gradually after his discharge, and conditioned on his good behavior. The practical difficulties of applying such a suggestion were evident.

The discussion on this question was animated, and revealed decided differences of opinion.

Mr. Cornez, the co-rapporteur, presented an extended draft of conclusions, of which the following is an abridgment:

The Congress is of the opinion that recidivists should be submitted to a disciplinary régime more severe than that for first offenders, but that individual circumstances and conditions should be considered in applying it, and that the right to impose this sentence should be devolved upon judicial authority.

The form under which this severer discipline should be imposed should be both moral and material. The moral elements should include the following:

1. Whenever possible, cellular imprisonment. When this is impossible, recidivists should form special divisions in congregate prisons.

2. The visits they are permitted to receive should, as a general rule, be restricted to their nearest relatives, but this rule should be relaxed for humane considerations toward them and their relatives.

3. The correspondence of recidivists should conform to rules as to visits.

4. The use of the library should be limited to religious books and those of a moral and scientific character.

5. In the application of discipline for infraction of prison rules the

penalties prescribed by the regulations should alone be applied, but with appropriate rigor.

6. The prisoners submitted to this régime should be excluded as far as possible from the privileged and easier employments.

The material elements should include:

1. Dietary should be so regulated as to repair the daily physical waste, and the canteen may be used simply as a means of supplementing the insufficiency of the dietary.

2. Beds and bedding should be strictly limited to what is necessary to insure repose.

3. Recidivists should be obliged to work to the limit of their strength and to complete a daily or weekly task.

4. Their share of their earnings should be reduced to proportions to be determined by the administration.

5. They should be forbidden to receive aid in money or in kind.

Mr. von Engelberg, of Mannheim, opposed that part of the proposition of the co-rapporteur which devolved upon the judge the responsibility of deciding whether a prisoner should be submitted to this régime. The question discussed is not whether another kind of penalty should be applied to recidivists different in its nature and essence; it is simply the question of the organization of the disciplinary organization of a sentence. And this is not the domain of the judge, but of the penitentiary administration. The treatment proposed should depend upon a profound knowledge of the prisoner, and this is acquired by long study of character, which the judge does not possess and can not acquire concerning the prisoner before him.

Mr. Veillier, director of the prisons at Fresnes, explained that in France recidivists were already subjected to a reduced allowance for their labor. It is impossible to admit, however, that the privileges of receiving visits, correspondence, and reading should be reduced. If they are good, multiply them; if they are bad, suppress them.

Madame Dupuy, general inspector of establishments for female prisoners, of Paris, likewise objected to the deprivation of correspondence and of visits with reference to female prisoners. In imposing such restrictions they would punish not only the prisoners but also their relatives.

Mr. Albert Rivière, secretary-general of La Société Générale des Prisons of France, called attention to the conclusions of previous Congresses as to the inefficacy of short sentences. Belgian magistrates have said that from 1879 to 1892 recidivism has augmented 40 per cent. It is necessary to pronounce longer sentences and to make the first penalty as severe as possible. As to the moral régime he was completely in accord with Mr. Veillier. Visits are more necessary perhaps for the recidivist than for the first offender, and the same as to correspondence and reading.

Mr. Skouses, formerly minister of foreign affairs of Greece, supported in general the conclusions of the co-rapporteur, but as to visits and reading he agreed with Mr. Veillier.

Mr. Bathardy opposed the conclusions of the co-rapporteur. He proposed a substitute declaring that recidivists should not be submitted to a special régime, but found in the duration of the sentences to which they are submitted the remedy to increase of criminality. His studies at the prison of St. Gilles had brought him to the conclusion that recidivism is very rare among first offenders who have been submitted to a sentence of sufficient duration under the cellular system.

After further discussion the conlusions of Mr. Cornez, as modified on a motion of Mr. Veillier to omit paragraphs 2, 3, and 4, relating to visits, correspondence, and reading, were adopted.

Discussion in General Assembly.

As a general thing, conclusions voted in the sections of the Congress are reaffirmed in the general assembly, where members of all the sections are reunited; but sometimes a hot debate in the sections is carried into the general assembly, and occasionally the conclusions, as in this instance, are reversed.

Mr. Cornez was appointed rapporteur to the general assembly, and restated there his position, and likewise with fairness that of his opponents, and read the conclusions adopted by the section.

Mr. Bathardy again presented his amendment, declaring that the best prison is that which takes away from the first offender any desire to return to it and become a recidivist. The conclusions proposed by him were adopted.

Conclusions:

I. *The Congress holds that the internal régime of prisons should be as severe as possible during the first committment, and not admit of other mitigations than those exacted by moral and physical hygiene, and that consequently recidivists can not be subjected to a more severe régime.*

II. *If classification, in countries where cellular imprisonment and congregate imprisonment both exist, the granting to prisoners of a fixed portion of their earnings and its surrender to them on their liberation, the choice of work, and exclusion from positions of favor, are useful elements to recognize in a prison system, then the duration of sentences, above all in the case of recidivism, must be considered the only measure which can be effectively preventive.*

THIRD SECTION.

PREVENTIVE MEANS.

President: Jules Rickl de Bellye, Budapest, Hungary.

Vice-presidents: Dr. Marcos M. Avellaneda, Argentine Republic; Dr. Antonio Bezerra da Rocha Moreas, Brazil; J. M. Bing, Copenhagen, Denmark; Dr. Ferdinand Curti, director of the penitentiary at Zürich, Switzerland; Judge M. D. Follett, Columbus, Ohio; Michel Rahtivan, director of prisons at Bucharest; Axel Smedal, Christiania, Norway; Oscar Szilágyi, Bosnia; S. P. de Yakowlew, Moscow, Russia.

Secretary: Charles De Lannoy, Brussels, Belgium.

Associate secretaries: Messrs. Braeken and Le Brun, Belgium.

Emigration for Young Delinquents.

First question:

> *Among the means of preventing crime should we include, in certain cases, the emigration, or the establishment in a colonial possession, of minors who have been subjected to the educative régime of reform schools or other similar institutions? If so, how can this be realized?*

In contrast to most of the other questions which were treated by numerous writers, only two reports were presented in answer to this question. Mr. De Lannoy, chief of the statistical service of the ministry of justice of Belgium, and co-rapporteur for the section, explained this indifference by the too general character of the question, and by the difficulties of realizing the idea. Emigration and colonization are terms of political economy, so vast and comprehensive in their significance that it is difficult to introduce them in the definition of a penal provision. Emigration can be made under many different forms, and there are many different species of colonies.

The problem involved is this: Vicious or abandoned children have been committed to the educative system of public institutions. They have no family to return to, or only one that is bad or unnatural, or, inheriting bad tendencies, they have been depraved by the environment where their infancy has been spent. When the time for their liberation arrives, should not their return to their original environment be prevented by seeking another where they will not experience the same evil influences, or where they may become part of a new family?

Evidently, says Mr. De Lannoy, this change of environment offers perspectives of regeneration very attractive, but how shall it be realized?

There is no question, continues the co-rapporteur, but that these youths on discharge may emigrate to a foreign country. But this emigration should not be erected into a system. Up to the present time no country has invited it, and supposing that a nation consents to receive these improved but not always healthful products of a neighboring nation, who then would dare to pretend that the best means of re-establishing a young man in society is to make him change his country and render him a stranger to those sentiments of attachment to his native soil which are among the purest sources of courage and generosity?

There remains emigration to some colonial dependency. This limits its application. We can only consider colonies where the white race is easily acclimated. Hardly one-tenth of the European colonies fulfill this condition.

We can not dream of transporting reform-school pupils en masse as we transport criminals. They would have nothing to gain from this mutual intercourse. It would be necessary to send them separately, or in little groups. But this would be only advantageous when the child found in the colony a superior environment, from the moral point of view, to that which he had had in his mother country.

But suppose all these conditions united? Suppose a colony with a good climate where a living may be easily earned, where the population is in general quiet and honest, such a colony as Canada, would it be profitable to send there pupils of charitable or correctional schools? The experiments made in England have proved that this method is sometimes effectual, but that its application is a matter of delicacy and uncertainty. The directors of several reform schools declare that 42 per cent, if not more, of children sent to Canada return immediately to their point of departure. They ask to leave England only to avoid the control under which they are placed and to escape the obligations imposed by the school. As to those who remain in Canada, what becomes of them? We have not much light on that subject. A society established by Dr. Barnardo claims to have saved 99 per cent of the 6,000 children which in twenty-eight years had been sent to Canada. But on what conditions: By sending to Canada only "the flower of the flock," children blessed with good health and absolutely honest and virtuous. Placed in Canadian families, subjected to a methodical surveillance, these children have become honest citizens and good workers. But considering their excellent nature it would seem, says Mr. De Lannoy, that they might have become the same without leaving England.

In France such experiments have been made upon a limited scale

and under special circumstances, and do not offer material for conclusions. They are not likely to be renewed, because the directors of reform schools find for their pupils very good places among the French peasantry.

Mr. Wilhelm, chef du service du contentieux au ministère de la marine, of Paris, France, supported the conclusions of the reporter and of Mr. Henri Joly, one of the writers. Transportation is a difficult matter. The health of young children might be compromised by sending them to tropical climates, and the colonial places are not always favorable to their moral development.

Dr. Guillaume, director of the Federal Bureau of Statistics of Bern, thought conclusions should not be formulated so as to absolutely forbid immigration to a foreign country. The information communicated in the two reports presented on the question were far from being complete, and therefore Mr. de Lannoy had drawn pessimistic conclusions from them. It might have been otherwise if this question like others on the programme had been treated by a large number of reporters, notably of countries like England, which sends every year, to one or the other of its colonies, pupils of reform schools who become useful citizens. The question as formulated does not concern merely pupils of schools in countries which possess colonies, but it also concerns countries like Switzerland, which have a climate like the United States. In these cases it is desirable that a pupil who has passed several years in an institution where he has conducted himself well should be withdrawn after his discharge from the influence of the unfavorable environment with which he was surrounded before his entrance. Emigration is necessary sometimes to continue the benefits of the education given in the institution. The number of pupils for which emigration is desirable will always be limited, and a choice should be judiciously made, taking into account the health of the candidate, his character, and the degree of instruction he has received. He spoke of the success of the English system. A committee in Canada informs the English societies when places are vacant. He mentioned the director of a reform school in the Canton of Bern who, in order to insure a cordial reception to immigrants had bought a farm in one of the northern States of the United States, where a Swiss colony was established. The farm was directed and administered by one of his employees, whose mission it was to receive the young Swiss emigrants from the establishment and to give them occupation until they had found work among the farmers of the colony. Experience proves that in certain cases, very few it is true, emigration gives good results.

Mr. De Kachkine, chief of the section of the general administration of prisons at St. Petersburg, opposed the transportation of children even to different parts of the same country when they were widely

separated. In Russia, for example, the provinces of the north are a foreign country for children raised in the southern provinces, and the east and west extremes of Russia differ more than Germany and Austria.

Mr. Veillier, director of the prisons at Fresnes, did not favor a conclusion absolutely opposed to emigration. He was in general opposed to the transportation of children, but it would be a pity in certain cases not to make use of the means of re-establishing children which the colonies offer.

M. Barthady took essentially the same position.

The conclusions presented by Mr. Joly in his report and modified by the amendment of Dr. Guillaume were adopted.

Mr. Wilhelm was made reporter to the general assembly, which adopted without modification the conclusions voted by the section.

Conclusions:

I. *Emigration should not be recommended to foreign countries, except in individual cases.*

II. *The placing of children in colonial possessions may be regarded as a preventive means, but on the following conditions:*

1. *Choice should be made of the most vigorous and the best moral subjects; in a word, of those best adapted for colonization in the country adopted.*

2. *They should not be grouped too much together.*

3. *They should be placed in a healthy environment.*

4. *They should be placed where they may be assured of more lucrative work than that of the metropolis.*

5. *Friendly relations should be sustained with them for a long time.*

Alcoholism and Crime.

Second Question:

What is the recognized relation of alcoholism to criminality in different countries?

To what special means may we have recourse in combating alcoholism among criminals in general?

Nine reports were presented on this subject by the following gentlemen: Messrs. John Baker, Dalhoff, Fekete de Nagyivany, Paul Garnier, Malgat, Marambat, Schaffroth, Sullivan, and Wieselgren.

ABSTRACT OF DR. MASOIN'S REPORT.

Dr. Masoin, professor of the University of Louvain, permanent secretary of the Royal Academy of Medicine, and alienist of the Belgian prison, was co-rapporteur, and said:

The question submitted is in two parts, which complement each other. Like a medical question it takes up first the disease, and second the remedy, or the diagnosis and treatment. The first part concerns

the extent of the evil of alcoholism in regard to crime. One might think this might be answered by figures which speak with clearness, even with brutality, but unfortunately it is not so. Statistics might show identical things if they were gathered from the same standpoint. But sex, age, the civil state, the profession, the nature or the gravity of the crime, all these and other things have been considered from different points of view. I will give the opinions gleaned from different reports presented.

Dr. Malgat, physician in chief of the prison at Nice, informs us that the influence of alcoholism on crime is 59 per cent.

Mr. Marambat, registrar of the prison at Poissy, gives the proportion as 66.4 per cent.

Mr. Sullivan, penitentiary physician on the Isle of Wight, states the proportion as 60 per cent for crimes of violence in England.

Dr. Baker, physician of the Pentonville, London, prison, thinks it runs from 55 to 60 per cent.

Mr. Dalhoff, chaplain of the Home for Deaconesses in Copenhagen, states that between 1871 and 1880 there were arrested for disturbance of public order 86,817 persons, of whom 56 per cent were disorderly on account of intemperance, besides 18 per cent who were intoxicated when arrested; in all, 74 per cent, or almost three-fourths. These figures would be increased were they given for men only, while they would be diminished were women alone under consideration.

Mr. Wieselgren, director-general of the penal institutions of Sweden, writes that out of 19,445 male convicts, who were found in Swedish prisons the last day of each of the years from 1887 to 1897, 14,461, or over 74 per cent, agreed that their crimes were connected with the abuse of alcoholic liquors, while out of 3,557 women imprisoned during the same time, only 202, or 5.6 per cent, were in the same category. He says further that, out of 24,398 men who from 1887 to 1897 were imprisoned in the prisons of Sweden either at hard labor or in solitary confinement, 17,374, or more than 71 per cent, attributed their crimes to the abuse of alcohol. Of women there were but 360 out of 3,054, imprisoned during the same period, of whom the same could be said, 11.7 of the whole number. Mr. Wieselgren closes by saying that the influence of alcoholism on crime in Sweden reaches unheard-of proportions.

Mr. Schaffroth, inspector of prisons in the Canton of Bern, gives the condensed statistics of the 35 penitentiaries of Switzerland January 1, 1892. At that date there were 1,816 men in those prisons, of whom 762, or 42 per cent, were drunkards; and of 385 women who were in prison 118, or 31 per cent, were intemperate; that is, two-fifths of the men and one-third of the women. Of the men sentenced during the year one-ninth were guilty of crime on account of drink.

Mr. Jules Fekete, from Budapest, says that anyone who has observed these matters closely must know that a third of the criminals commit

their crimes in a state of inebriety. In 1897 two-thirds of 1,574 cases of disturbance of the peace, one-half of 13,564 crimes against the person, and the majority of homicides were committed while in a state of drunkenness.

Such are some of the statistics which have been furnished to this conference. But there are other statistics, which have been collected in the archives of penological science and elsewhere, and statistics furnished in Germany and in the United States. Let me give you some of the statistics of Belgium.

Mr. F. Thiry, professor of criminal law in the University of Liege was the first, I think, to specially study in our prisons the influence of alcoholism upon crime. He thus sums up the results of his investigations at Liege: "In 1895 I had proved that the general proportion of convicts influenced by alcohol was about 45 per cent. It was about 50 per cent in 1896. The proportion relative to assault and battery was about 66 per cent in 1895 and 73 per cent in 1896. Relative to theft, cheating, and offenses against good morals it has not changed; in 1895 it was about 34 per cent for the former and 61 for the latter."

In 1896, resumed Dr. Masoin, I reported to the Belgian Royal Academy of Medicine figures referring to the central prison of Louvain, where our worst criminals are kept in solitary confinement. Allow me to give a résumé of those statistics.

In the first table is a list of the convicts of that prison for twenty-two years, from 1874 to 1895, a total of 2,826, with a minimum of five years' imprisonment. Of those, 781 made no response to my question "Were you drunk at the time of the commission of the crime?" Of the 2,045 who replied, drunkenness was confessed in 344 cases, or 11.4 per cent.

When it comes to the question of habitual intemperance, 238 were silent; but of the 2,588 remaining, 1,157, or 44.7 per cent, were habitually drinking men.

In a second table I included only those condemned to life imprisonment at hard labor for the period from 1872 to 1897. Of 235 individuals in this group no information on this subject was obtainable for 105, but of the 130 remaining there were 53 cases of drunkenness, or 40.7 per cent. As to habitual intemperance the records were silent concerning 19, but of the remaining 216 there were 118, or 54.6 per cent, habitually intemperate.

Between the years 1872 and 1895 there were condemned to death 216. Deduct those of whom the records are imperfect, and of 88 criminals 38 were drunk at the fatal moment of committing the murder—43.1 per cent.

From the second point of view we see that, deducting the 14 of whom we get no report, of the 202 condemned to death 121 were noted as drunkards—60 per cent.

From these figures one is led to the following conclusions:

1. The army of crime is largely recruited from intoxicated persons and habitual drinkers.

2. The rôle of alcohol as the purveyor of crime is accentuated in the degree that we reach the graver crimes.

3. It is not so much occasional drunkenness that is dangerous as the persistent use and abuse of alcoholic liquors. When the brain is constantly impregnated with this dangerous fluid the result is seen in frightful clearness in the genesis of crime.

In 1897, at the International Congress on the Abuse of Alchoholic Drinks, I gave some new statistics bearing on minor infractions of the law by persons sentenced from one to five years' imprisonment. These showed that 40 per cent of the men and 13 of the women were given to intemperance and 47 per cent of the men and 24 of the women were drunkards.

I hasten to come to a third and more comprehensive table of statistics, which shows that from the best information possible to obtain 22.2 per cent of the men were intoxicated at time of the commission of the crime and 5.6 per cent of the women; 44.6 per cent of the delinquent men were drunkards to 23.2 per cent of the women.

It must be confessed that these statistics show but one influence in the production of crime. It is not supposable that men innocent of any propensity to crime are led to commit it by intemperance alone. There are diverse influences leading to it—certain factors in education, the conditions of life, morbid conditions, like imbecility and epilepsy, hereditary influence, etc. In short, it is impossible to separate the causes or to depend upon any statistics with reference to drink. To do the latter, each case must be individualized. This laborious but excellent method has been tried in the Swiss Prison Society. In 1892 this society formulated certain questions which were asked in 33 penal institutions in the Swiss Confederation. The attempt was made to ascertain as exactly as possible the chief supposed cause of the crime or misdemeanor, and to make a distinction between the chief cause and supplementary causes. A central bureau studied the statistics and reported as follows:

Out of 1,816 men and 385 women, 2,201 in all, only 168 cases, or 7.65 per cent, were found where drink was indicated as the sole cause of the crime. Associated with other influences it was considered as the immediate and chief cause in 304, or 13.8 per cent; and it played some part in 905 cases, or 41 per cent.

After deep study our distinguished colleague, Dr. Guillaume, has arrived at the conclusion that 33.7 per cent represents the immediate and essential influence of alcohol on crime. Although those figures are less than that given by some of our reporters, yet they are greater than any of the other recognized causes of crime, misconduct, dissipa-

tion, idleness, poverty, quarrelsomeness, disputes, hatred, anger, etc. To these must also be added those unhappy men who are not themselves intemperate, but are the sons of drunken fathers, who are thus urged on to crime through the influence of alcohol for which they themselves are not responsible, for it must be said in reference to this serious matter that one often finds ignorant innocence by the side of abject degradation.

Though there is much obscurity concerning this subject, and though statistics are inaccurate, yet we can not acquit alcohol, for aside from all errors it is a great contributor to crime. Is it not at the saloon that criminals plot their deeds and often divide their spoils? Does not alcohol often apply the whip to give brutal energy at the moment of action, just as one uses alcohol in illness to drive the patient out of a rut? Is it not sometimes to pay for their orgies that men commit atrocious deeds? Is it not especially true that under the influence of alcohol the noblest faculties of the soul are dethroned and brutal passions enchain it? Is it not, finally, the descendants of the drunkard who will, above all, fill up the army of criminals?

If all this is so—and there can be no doubt of it—then we must acknowledge the influence of intemperence in the field of crime. And it is not enough to find the plague spot of alcoholism, but a remedy must be applied. That is the object of the second part of this study.

The task is difficult and success dubious, but we must not lose courage any more than the physician does who is unwearied in treating the most rebellious maladies and whose steadfastness has received its reward and will receive still greater rewards in the future.

The first step to be taken is to forbid the use of alcoholic drinks in all penal institutions, except at the prescription of the physician.

May there not exceptions be made in the case of certain convicts who are accustomed to beer, which is slightly nutritive—as wine is not—while mildly stimulating to the digestion? I see nothing out of the way in allowing this, especially as in many localities the water is not pure. We know only too well that many diseases are provoked by microbes in the water, and the addition of wine can never purify such water. It is only when the water is boiled, as it is in making beer, that the water is rendered innocent. I approve, therefore, in Belgian prisons, of giving beer to those in charge of the washhouse, to stokers, bakers, cooks, and their assistants.

The first way to reform an intemperate convict is by work, without which no life is right or dignified; and while his hands are learning how to work his mental horizon should be enlarged by instruction. In this instruction the dangers of intemperance should be set forth without exaggeration. The captain, the physician, the superintendent, the guards, should unite in trying to instill the principles of temperance. Besides these face-to-face instructions there should be public

meetings, where the dangers of intemperance should be set forth by experts.

But in addressing the ears the eyes should not be forgotten, for nothing should be neglected in dealing with so insidious a foe as alcohol. Printed maxims setting forth these dangers should be kept before the man, and perhaps pictures showing the effect on the human system. These may be hung on the walls of corridors and halls or in the cells. But there should never be the least trace of exaggeration, which is the greatest enemy to the truth. I have in mind especially certain colored charts which, though made with the best intentions, no anatomist can approve.

Physicans in quest of remedies against alcohol have sought for substances which would give a distaste for alcohol or remedy the ravages wrought by it. The means adopted by Schreiber and Berzelius we could not dream of adopting in prisons, namely, to give brandy in all food and drink till a disgust for it is produced and the man calls for cold water instead. This treatment lasts from fifteen to twenty-eight days. But he would not be much of a prophet who should foretell that that sort of experiment, no matter how scientifically managed, would call out indignant denunciation from press and people. Nor could one, for fear of calling down the thunders of certain people, try "la teinture alcoolique de grenouilles," though Professor Nasse shows favorable results from this remedy. But the cure has not been always permanent.

The empyreumatic oil which gives brandy made from potatoes a special taste, administered regularly, belongs to this method of treatment, and according to Magnus Huss it demands an important place in treatment. But other substances have been recommended. The Russian physicians, Manasseine, Podvissotzsky, N. V. Popoff, Partzevsky, and especially Portougaloff, boast of strychnine as a specific for drunkenness. More recently pilocarpie has been suggested (Neely). *Cactus grandiflorus* is claimed by the homeopathists as exercising a powerful influence on the heart and arteries, but here it is the brain that must be modified. The meat remedy and the vegetarian remedy, recommended for drunkenness, have failed, as have also the Turkish bath and other remedies.

A more serious suggestion is hypnotism, which has given favorable results in the hands of competent men, such as Auguste Voisin, Forel, Ladame, Bertillon, De Jong, Hubert Neilson, Lloyd-Tuckey.

Finally, in the list of medical remedies appear the serums, but however odd the remedy suggested, one should not condemn it in advance, for the unexpected often happens, even in medicine.

Temperance societies should be encouraged to lie in wait for the liberated convict after the manner of what are picturesquely called in England "Prison-gate missions."

Above all, there should shine before the eyes of the prisoner the

ray of hope of conditional liberation if he promises to abstain from alcoholic liquors, such as has been practiced in Belgium for twelve years.

After this long list of remedies which may be applied in prisons, permit me to offer two ways for fighting this battle against alcoholism. I will call them projects for the future, which governments and administrators and observers ought to study in order to know how far they can be fitted into the actual workings of prisons. They are as follows:

1. Special institutions for the medical treatment of alcoholized convicts.

2. Intermediate institutions where alcoholized convicts might spend some time before regaining entire liberty.

There is much to be said as to these two projects which has to do with the financial side, which, however, ought to be of secondary importance, and that relate to questions of principle, like the indeterminate sentence, which is enticing, but which I am incompetent to discuss. All that I would dare say is that this double system has been tried successfully in some countries. In taking up this question for study the congress shows once more its solicitude for those unhappy creatures whom it is necessary to repress, but especially to reform.

DISCUSSION.

Mr. Thiry, professor in the University of Liege, said: The first remedy which I would cite to combat alcoholism among convicts is the severity of the penalty for the crime of which alcoholism was the cause. I do not speak of the crime of drunkenness, which is punished as such by certain legislatures, notably our own, but of the crime which drunkenness has provoked. It is not necessary to prove that alcoholism is one of the great causes of crime. That truth has been proved by experience and by statistics. In statistics which I collected in the prison at Liege in 1896, out of 23 convicts sentenced for assault and battery (in four cases of which death was the result) 12 were drunk at the moment of the crime—52 per cent. Five others, though not actually drunk at the moment, were in the habit of drinking. Thus there were 17 out of 23 more or less under the influence of alcohol—a terrible percentage of 73. Out of 18 individuals 3 were convicted for rape, 10 for unchastity, 5 for outrages upon decency, and of these 18 5 were drunk at the time of the act and 6 were habitual drinkers—that is, 61 per cent were influenced by alcohol. Of 21 convicts there were 1 for theft, 1 for receiving stolen goods, 3 for abuses of confidence, and 1 for cheating. Among the thieves 4 were drunk at the time of the crime, another had been drinking before, another owned to having taken a drop from time to time; the receiver of stolen goods had drunk "like everybody else." As to the swindlers, 1 was drunk at

the time, and the other declared that he had committed the act to pay his drinking score. In short, of the 26 delinquents 9, or 34 per cent, were habitual drinkers.

The two great causes of crime are the exaggerated excitement of brutal and immoral instincts and the weakening of the intellectual and rational faculties. Now, medicine has long shown that these psychologic conditions are the consequence of alcoholism. In the face of this fact there should be severe penalties attached to crimes provoked by drink.

It may be objected that drunkenness should not increase the penalty, because it will destroy the responsibility of the agent and at least lessen his guilt. Let me explain: I recognize that alcohol may sometimes completely destroy the discernment, the conscience. In that case, if the offense is such that discernment, criminal intent, was necessary, then the agent is not punishable. If it is an offense that does not require intent, such an offense as is improperly called involuntary, then the guilt remains. It rests not upon fraud, but upon a failing, and the failing consists in having given way to drunkenness and so having been led into crime. The best example of this consists in homicide and assault and battery, committed without criminal intent, and which are punished under our law as involuntary offenses. It is for such offenses that I demand more severity.

Penalty constitutes a means of education and reform by the suffering that it induces, but that suffering is far from being enough to produce the desired result. There must be moral influence exercised along with the suffering, and that influence must consist in the instruction of the prisoner. The convict is an antisocial being. To transform him and fit him to return to society able to understand the laws and his duties, we must reach his reason. Through pain one may prevent crime, owing to fear, but that does not reform the man; it leaves him as vicious and corrupt as before. It is for that reason that the war against alcoholism should be waged with vigor in prison. All the officers, the director, the chaplain, the schoolmaster, the guards themselves, should use their influence in making prisoners understand the dangers of intemperance and the stupidity of a vice that can only bring misfortune.

This antialcoholic instruction on the part of the prison officers is not enough. It should be helped by those from the outside who are capable of inspiring confidence, a confidence that prison officials can not always inspire. I refer to members of guardian societies. How shall they act? At first, by conversation with the prisoners in their cells; afterwards, by two means which I have long tried to have adopted, but in vain—by lectures in the prison and by publications distributed to the prisoners. Authority to have lectures given has been granted to me for some years, and I have remarked the satisfaction with which they have

been followed. The prisoners have found in them an influence which helped their self-respect and destroyed the bitterness of their hearts. They have been grateful for this moral aid, and with real delight they have listened to the principles, the ideas, and the laws which I have taught to them. I have often proposed in previous Congresses that there should be a journal established for prisoners in which these lectures should be printed in brief. The Congresses have always approved of my ideas, and I regret much that our Government should have withdrawn an authorization for them which could have produced only excellent results. One sees how specially valuable such lectures and publications would be in teaching temperance.

This instruction ought not to cease when the man leaves prison. It should be continued by guardian societies. The first effort should be to induce the discharged men to join temperance societies. That, in my opinion, would bring about absolute temperance, which is the best means to secure permanent cure. In the face of such a vice as intemperance there should be nothing done for the sake of passing away the time. Every means employed should have for an object the bringing of the man back to his early habits. I am talking of temperance on his being set at liberty; it goes without saying that during his impris onment he would necessarily be restrained from drinking by authority.

The means that we have discussed would produce very good effects, yet often they would be insufficient. Intemperance is a vice of tremendous power. The sentence is often too short to tear such a vice out by the roots. Moral instruction is often deficient in its influence when combating a vice that has had possession of a man so long that it has become established in the temperament of the victim. Outside influence, the aid of guardian societies, is likewise sometimes insufficient, because men will not accept such aid. Something else, then, is needful, and that is what gives me the most confidence. That is the compulsory treatment of drunkenness and alcoholism. Persons given over to these vices should be put into institutions specially created to treat and cure them. Such institutions exist in Switzerland. The time of treatment should be indeterminate, though a maximum term might be fixed, thanks to the data which physicians already have as to the duration of the disease and the time necessary to a cure. Two years has been proposed and Magnan demands nine months as a minimum.

This enforced treatment would not be in the nature of a punishment. Supposing a habitual drunkard had committed no infraction of the law, he would receive only this treatment. If he were guilty of an infraction, then he would first be imprisoned for that infraction, as a penalty, but it would then be continued for the treatment of his infirmity.

It will be objected that such a measure would violate individual liberty in a scandalous fashion. The dangers arising from alcoholism

with reference to crime, misery, pauperism, the physical and moral degeneracy of the descendants of drinking parents are so horrible, that there can be no doubt that society in self-defense has a legal right to protect itself from them. Imprisonment being insufficient, self-preservation can be secured only by the compulsory treatment of those victims. The Temperance Congress in 1897 did me the honor to accept this thesis, which was then presented for the first time.

By whom should this compulsory treatment be ordered? In the case of convicted persons the reply is easy: by the judge who finds the guilt. We have not spoken of habitual drinkers who are not guilty of crime; the question here does not concern them.

Compulsory treatment is the true and legitimate social defense against habitual drunkards. Let us not hesitate to employ it; in the presence of the peril which threatens society it is a crime to put it off longer.

Dr. Paul Garnier, physician in chief of the Dépôt, Paris, said: It is not the question whether alcoholism has an influence on crime. The question was long since decided as to the influence of alcoholism upon insanity as well as upon the increase of crime. We have not to determine facts, but to proportion the social defense to the formidable intensity of the evil. Those who have done me the honor to look over the report which La Société Générale des Prisons intrusted me to make may have noticed that on every page, one might say, I have been led to speak of the parallelism existing between the effects of alcoholism in producing insanity on the one hand and on the effects of that poison on crime on the other hand. I judge that one could never learn better the "why" of the influence of alcoholism in directly or indirectly producing crime than in taking for comparison the reports of causality existing between alcoholism and cerebral degeneracy, whether direct, immediate, personal, indirect, mediate, or hereditary. The whole thing belongs together in this somber trilogy of alcoholism, insanity, and crime. It is evident that in the study of the results of intemperance on the frequency of insanity we shall find the most valuable and certain hints in the investigation which we wish to make. Between these two social phenomena there exists a close bond and their evolution progresses pari passu.

We must not deceive ourselves as to the effect of the proposed remedies, as they may not have very appreciable results. It is better, however, to begin the struggle by moral education than to fold our arms and say that it is all useless. Absolute pessimism would be still more disastrous than too great optimism. But, in any case, we must recognize that we can not accomplish any permanent good until we can modify the moral state of certain social classes and until we can uproot the workingman's fixed belief that alcohol and fermented drinks are necessary for the production of energetic work.

Continuing, Dr. Garnier called attention to the increased danger which comes from the use of more noxious elements. He disapproved of giving alcoholic drinks to prisoners by way of recompense. It is better to entirely prohibit the use of alcoholic and fermented drinks in prisons,

To an American prison warden it seems strange enough that such a question should be susceptible of discussion, since all alcoholic liquors are absolutely excluded from our prison régime unless prescribed for medical purposes.

Dr. De Boeck, superintendent of the St. John Hospital for the Insane, Brussels, said: Theoretically there is no doubt that alcohol is a powerful factor in criminality. Criminality is, in fact, in the last analysis only a defective adaptation to social requirements, and very often is the result of some structural imperfection of the brain or some inferiority of the nervous system. Every cause of decadence of the brain, whether anatomical or functional, may bring about criminality either in the subject of this decadence or in his descendants.

Alcohol is a violent poison to the nervous elements. It destroys them when taken in large doses, or by a slow death when taken in small, but often repeated quantities. The noble, nervous elements, on which depend the highest function of the moral sense, of character, and personality, and those which are most essential to its action, are precisely the first affected. These elements are affected in the descendant; the vital momentum is insufficient, development is arrested, and functional value decreased. There are thus close relations between alcoholism and habitual criminality.

Dr. De Boeck then spoke of different forms of intoxication leading to passionate and violent crimes, or those of a more passive sort, which followed the debauch. Judicially the delinquent is responsible for these acts, but he would never have committed them had he not poisoned his brain the night before. There is no lack of material with which to show the influence of alcoholism, whether occasional or habitual, upon crime. The researches of Baehr, of Marambat, of Grain, and others are well known. Although dating back twenty-five years, Baehr's researches have remained the basis of all our knowledge of the connection between alcoholism and crime. They show:

1. The alcoholic origin of a great number of crimes and misdemeanors. Of 32,000 prisoners, 13,706—that is, 41.7 per cent, had committed their crimes under the influence of alcohol. Of 100 criminal men Baehr found 53.6 per cent occasional drinkers and 46.4 per cent habitual drinkers.

2. That occasional intoxication plays a preponderant rôle in certain sorts of crimes and misdemeanors, particularly in emotional crimes and misdemeanors and in those against morals and offenses against the

person. Its rôle is much less important in offenses which require preparation, such as theft, swindling, forgery, and embezzlement.[a]

The relation between alcohol and crime did not escape Ducpétiaux, the great penologist of Belgium. In his opinion, four-fifths of the crimes committed were due to alcohol.

Convictions for drunkenness and lawbreaking, and crimes and misdemeanors committed during intoxication, are much rarer among women than among men.

In Holland 33 per cent of the whole number of convictions is due to drunkenness.

Dr. De Boeck cited Lang's investigation as to the proportion of blows and injuries inflicted on different days of the week, showing that quarrels were more numerous on Saturdays, Sundays, and Mondays—the days when there is the greatest amount of drinking. Dr. V. Kalylinsky gathered statistics at the prison at Dusseldorf in 1894 which recalled Lang's. Of 380 prisoners, 132 committed their crimes and misdemeanors on Sunday. Eighty-six per cent of the blows and injuries, 60 per cent of the outrages, and 77 per cent of all the lawbreaking were committed on Sunday, Monday, or Saturday.

We know that women commit fewer crimes than men, but the rate of crime among women is larger in those countries where women are more given to drinking. According to Sidney Whitmann the proportion of criminals in England is four men to one woman; in North America, where women drink less, the proportion is twelve men to one woman. Attempts have been made to establish in another way the relation between alcohol and crime; namely, by comparing the figures representing the consumption of alcohol and the number of saloons with the figures standing for the whole amount of crime committed or with the number of infractions which seem to be particularly connected with alcohol. But though in certain cases this method gave curious results, as in the tables of Lombroso and Ferri, it is not, in the opinion of Dr. De Boeck, to be trusted. The relation observed in Sweden between the consumption of alcohol and criminality does not hold at all when one studies criminality in England or Belgium.

In a word, said Dr. De Boeck, in summing up the reports, the documents which we have on the relation of alcohol and crime are very important and very interesting, but they are not made consistently with any system of uniformity and they come from many different sources. It is impossible to measure the extent of the action of alco-

[a] The student of the relation between alcoholism and crime will find in the proceedings of the Congress (vol. 1, p. 409, et. seq.) important statistics in relation to the effect of alcohol on morals and public order. In the special papers furnished by writers in different countries in other volumes of the reports of the proceedings interesting statistical data may be found.

hol. We must not forget, furthermore, that though alcohol encourages crime, criminal habits in their turn encourage the use of alcohol. Researches should undoubtedly be continued.

As to measures that can be taken against alcohol in prisons, it is to be feared that exhortations, lectures, mottoes, and temperance placards would be of only imaginary effect.

There is only one way of lessening the frequence of crimes and misdemeanors engendered by alcohol—that is to forbid the sale of all alcoholic drinks, or to raise the price to such an extent as to place them beyond the reach of the mass of the people.

Mr. Matter asked whether the Prison Congress ought to recommend the employment of such medical means as hypnotism. From the information he had received from certain doctors it was efficacious at first, but ephemeral in its results. He asked the opinion of Dr. Garnier.

Dr. Garnier said that there were different opinions as to the therapeutic value of hypnotism. They could not actually in a congress pronounce upon its value. He did not place much confidence himself in the value of hypnotic suggestion; better results could be reached by reviving the enfeebled will of the person.

Dr. Masoin recognized that hypnotism might be transitory in its effects, but it was something to obtain even a momentary result. Hypnotism as a therapeutic means had already entered science, thanks to the schools of Nancy and Salpêtrière.

Mr. Bailleul, director of the district prison of Marseille, made a strong argument against the practice existing in France and other European countries of allowing prisoners to use alcoholic drinks. Dr. Garnier also advocated the total suppression of alcoholic liquors in prison.

The prolonged discussion of this question resulted finally in the adoption of the following

Conclusions:

I. *In statistical researches concerning alcoholism and crime, it is necessary to individualize each case and to take into account the presence of other causes than the influence of alcohol.*

II. *Alcoholic drinks should be absolutely interdicted in prison, except for special medical reasons when even strong liquors may be utilized.*

The tendency to abuse and even to use alcoholic liquors by prisoners should be combated in general by measures for moral elevation, and especially by appropriate reading matter, by personal interviews and pledges, by lectures to groups or the whole body of prisoners, by pictures placed in cells or in the assembly halls, by certain special forms of medical treatment, and by the prudent application of conditional liberation.

The Congress declares itself in favor of

1. *The establishment of intermediate institutions to which the prisoner addicted to drink may be sent before being granted his complete liberty.*

2. *The establishment of asylums or special quarters for the medical treatment of condemned inebriates.*

The Congress further suggests that in different countries, making allowance for latitude, climate, and temperament, the maximum degree of alcohol contained in fermented liquors should be ascertained with a view to establishing a line of demarcation between alcoholic and nonalcoholic drinks, and to show the relation between alcoholism and crime, and to furnish a basis for comparative statistics.

Employment Bureaus for Discharged Prisoners.

Third Question:

In what measure and under what conditions may the work of aid societies be improved by offices which undertake gratuitiously to furnish information and procure employment?

Mr. Bathardy, chief of division of the ministry of justice at Brussels, as co-rapporteur confined himself to a brief résumé of the six reports presented, and proposed positive conclusions answering the question and suggesting various details.

Mr. Veillier, director of the prisons of Fresnes, furnished interesting information concerning the work of the aid society of Melun, which has established in its shelter house a free employment office. For some years past this society has combined in its sphere of action discharged prisoners, tramps, mendicants, and vagabonds. Instead of having two distinct organizations, one for discharged prisoners and the other for mendicants and vagabonds, which is always more costly, it has united its resources, and by means of a strong organization, it is able in a little city of 10,000 souls to satisfy at a small cost the most exigent demands in matters of relief, and in finding places for applicants. It determined that admission should be prompt, easy, devoid of formalities, and nearly gratuitious. To attain this end it gives cards of admission to all applying, costing about 1 sou (1 cent). The society has determined also that discharge from the workhouse should be free; and under the simple condition of remaining at the shelter at night it permits its cases under certain rules to work outside, and to spend several hours a day, if necessary, in seeking a more lucrative occupation.

From a financial point of view the association is sufficiently powerful to assure work to applicants, and to give them food at a low price and in such a manner as to cover, as a general rule, the expenses.

It is no secret that beggars and vagabonds do not accept work the greater part of the time unless driven by the stimulant of need. The aid society places before them prices of food and the tariff of labor, and leaves them to conclude that their material situation will be in proportion to their individual effort.

The society has also a kind of free employment bureau. It has daily a table of the vocations of those who are aided, which is consulted by those having need of special workmen. The local press has supported the enterprise.

Mr. Matter, engineer of arts and manufactures, and general agent of the Protestant Aid Society for Discharged Prisoners, said that it is for the discharged prisoner to seek work and to reveal his history and antecedents, as seems to him expedient; but employment committees of aid societies should not conceal from employers the antecedents of individuals for whom they seek work; they owe the truth to those who avail themselves of their service. Now, employment bureaus organized by municipalities, or by workmen, or by philanthropic societies very careful as to the good reputation of their candidates, will not very willingly take up the work of placing those who can not be recommended. It is the discharged prisoner himself who can most easily find a place. We ought to provide for him in a provisional asylum, and give to him all the suggestions possible while he is seeking work.

Mr. Veillier said that the aid society of Melun, which is also a free employment bureau, does not inquire concerning the past life of its protégés. It could not do this without a special organization, and without becoming involved in much expense. It is content to bring the employer and the protégé together to discuss the conditions of engagement. The society assumes no responsibility.

The conclusions, drafted by Mr. Bathardy with modifications proposed by Mr. Matter, were then adopted in the section and reaffirmed in the general assembly.

Conclusions:

1. *To fulfill effectively their work of charity, and to secure the success of their social mission, the prevention of crime, aid committees for discharged prisoners should have recourse to employment offices, which undertake gratuitously to furnish information and to secure employment.*

2. *The organization of these offices should be determined by local conditions, but it is indispensable that the different organizations should sustain constant and methodical relations with each other.*

3. *Aid committees should inform employment bureaus as exactly as possible with reference to the aptitudes and antecedents of their protégés. The question of divulging these antecedents to the final employer is left to the judgment of the office.*

4. *Aid committees which do not establish special offices should contribute to the financial support of the independent organizations to which they have recourse and which render service gratuitously.*

5. *Those institutions which give aid only through work are, at least in the large centers, the necessary complement of the employment bureaus. The aid committees have then the greatest interest in stimulating and favoring their creation.*

FOURTH SECTION.

CHILDREN AND MINORS.

President: Professor Brusa, University of Turin, Italy.

Vice-presidents: Antonio-Ferreira Cabral-Paes do Amaral, Lisbon, Portugal; Dr. Fernando Cadalso y Manzano, of Madrid, Spain; A. Didier, of Geneva, Switzerland; Dr. Jules Fekete de Nagyivány, Budapest, Hungary; Count de Marchant d'Ansembourg, of Luxembourg, Belgium; Nazim Bey, Constantinople, Turkey; William Tallack, secretary of the Howard Association, London, England; Prof. Iwan Tarassow, University of Moscow, Russia; Mlle. Lydia de Wolfring, of Russia.

Secretary: Constant Loix, of Brussels, Belgium.

Associate secretaries: Dr. Amédée Lentz and Dr. Maurice Poll, both of Brussels, Belgium.

Recidivism in Relation to Minors.

First Question:

Under what conditions should minors be regarded as recidivists and what consequences should follow such recidivism?

Five reports were presented on this question. The discussion in the section was held under the presidency of Mr. Brusa. Mr. Jaspar, secretary de la Commission Royale des Patronages of Belgium, gave a résumé of the reports. The writers agreed in regarding recidivism as incompatible with the conception of youthful criminality. Recidivism supposes an act committed with discernment and a previous commission of the act which has been followed by the imposition of a penalty. But under the codes of most civilized countries, children under 16 years of age are not regarded as acting with discernment; those who are so regarded must be classed with adults. With minors below the legal age of responsibility the cause of the offense must be sought in education. The education they should receive should be determined by their personal needs and by their surroundings. Sometimes the child should be committed to its parents; sometimes to another family, or to a charitable institution. The repetition of the offense after conditional liberation simply shows that the education has been ineffectual and that a better method must be chosen. For

children the question of a sentence should be excluded; it is simply a question of education.

Mr. Michel Heymann, official delegate from the State of Louisiana, likewise emphasized the fact that no children should be considered as recidivists. As soon as a child commits an offence by reason of family negligence, or by reason of his environment, the State should come to the aid of the unfortunate little one and change his environment in such a manner as to prevent him from falling again into the same error. But prevention is better than cure. For this reason we make every effort to take children in charge at a very young age and to place them in maternal schools established by private benevolence where the hand and the heart may be formed at the same time as the head.

Mr. Brun, director of the agricultural school of Douaires, France, said that the stigma of condemnation should be avoided for children.

The discussion drifted somewhat into the question of the legal age of minority, but was brought back by the president, who called attention to the fact that that question was not submitted to the section. Unanimity was rapidly reached in regard to the essential point. Mr. Michel Heymann was appointed reporter to the general assembly, and the following conclusions, adopted in the section, were unanimously voted by the Congress.

Conclusions:

The idea of recidivism, whether legal or theoretical, is foreign to the criminality of minors.

Consequently, so long as the individual is in a state of penal minority he must not be regarded as a recidivist.

But if the child repeats its offence, or commits a new one, that is an indication to the State that the régime adopted with reference to him should be modified.

Guardian Societies and Young Delinquents.

Second Question:

Should the intervention of aid or guardian societies, with reference to young delinquents placed under a suspended sentence or upon probation, be made obligatory, and in what manner should it be organized?

Mr. Silvercruys, of the ministry of justice, Belgium, as co-rapporteur, presented an analysis of the five reports on this question. The question was not drawn with sufficient precision to avoid the disputes which result from ambiguity in words. There was manifest the same objection developed in the discussion of the preceding question, namely, the admission that children should be the subject of any judicial condemnation. The result of the discussion in the section was well

presented by Madame Vloeberghs, president of the women's section of the Comité de Patronage of Brussels, who was made reporter to the general assembly.

According to Mr. Silvercruys, the question only referred to children within the age of penal minority—that is, those who are not legally responsible—and as these could not be the subject of a sentence, neither could they be the subject of a suspension of sentence. Mr. Silvercruys maintained that the legislation of each country determined the age below which educative were to be substituted for repressive measures, and that the necessity of submitting a child to an educative régime was not consistent with conditional liberation or suspended sentence as the result of a judicial process. He believed that the surveillance of the State should extend to children placed out under guardian aid societies.

Mr. Jaspar, of Belgium, thought that the question should have been framed as follows: Is it possible to impose a conditional or provisional sentence with reference to young delinquents; and if so, is there ground for the intervention of guardianship?

Mr. Heymann called attention to the fact that in certain States of the United States probation officers were appointed who were present in court at the examination of children or minors. If the relatives are worthy, the child may be placed in their care; if not, it may be placed in a good family or in a private institution, or, as a last resort, in a public establishment. In the United States the principle is accepted that the best place for a child is the family, and that institutions are but necessary evils. The child is protected there, but he does not learn to think and act for himself, he can not acquire there the force of character necessary for the battle of life.

Mr. Thiry spoke in regard to guardian societies and their work, saying that its great characteristic was that it was independent, and he deprecated any control by the State which should destroy this independence.

Mr. Felix Voisin did not see how guardian societies could refuse an inspection by the State which has a right to ask what they were doing with the children committed to their care, though they might repel a surveillance which was annoying and vexatious. He knew in France many committees of aid societies, and it never occurred to their members to say to the State, "It does not concern you what becomes of the child you have placed in our care." They are happy, on the contrary, to show to the State on every occasion the results obtained by placing out children. We need not say that the work of guardian committees or societies should be under the control of the State; let us say rather under the ægis of the State.

This suggestion of Mr. Voisin was accepted as a compromise on the vexed subject of State control. Without attempting to define its

limits, the general principle that children placed out by the State or committed to guardian societies are under the protection of the State was recognized.

Senator Bérenger thought that the question of State control or super vision ought to be the subject of further study, and proposed that it be referred to the next Congress. The proposition was accepted.

Conclusion:

The idea of a suspended sentence and conditional condemnation is foreign to the conception of the criminality of minors. But administratively the execution of a sentence which commits the child to the control of the State may be suspended, and in that case guardian societies may intervene under the protection of the State.

In every case of conditional condemnation of a young delinquent who has reached the legal age of responsibility, when the family is incapable of giving him the necessary education, it is desirable to place him under the surveillance of a guardian society.

Technical Education in Institutions for Children.

Third Question:

Upon what principles should technical education be organized in reform schools or other similar institutions for children?

The discussion in section was conducted under the presidency of Mr. Didier. Mr. Campioni, justice of the peace of Schaerbeek, Brussels, was the co-rapporteur, and his analysis of the twelve reports presented was comprehensive and effective.

The question is a large one, and to bring it within certain limits Mr. Campioni reduced the opinions of the writers to four heads and to four conclusions.

First. What can be legitimately hoped of professional instruction in reformatories? We must not indulge in illusions as to what is possible. To exaggerate the grandeur of results constitutes a danger for the pupil, his parents, the administration, and for the aid societies. Some of the reporters seem to dream of the perfect workman; others hold it to be chimerical to hope to transform the house of correction into a professional school. Mr. Campioni holds that the truth lies between the two. The institution can not take the place of the shop where a true apprenticeship may be had, but by a solid preparation, theoretical and practical, it may reduce that apprenticeship to a minimum.

Second. As to the choice of a trade for the pupil. Four considerations ought to be taken into account: (1) The nature of the profession of the father, and even of the dominant trade in the place of origin. Without affirming that children may be endowed with hereditary

predispositions, we must recognize the fact that such predilections exist, and also that from a tender age the child has been familiarized with many details of the trade exercised by his father, and may have learned to use his tools. This is an initiation whose influence should not be neglected. (2) The region in which the future workman is to reside should be taken into consideration. (3) Intellectual aptitudes are evidently an important factor. (4) Most important to be emphasized is the physical fitness of the pupil. Science has not sufficiently studied, heretofore, preventive hygiene with reference to different trades. Just as there is a list of disabilities which exclude from service in the army, so there should be a similar list of physical disqualifications for various trades requiring special physical endowments.

Third. What trades or professions should be taught in these establishments? Some reporters seemed to wish to limit the teaching of trades to those which correspond to the needs of the establishment. To Mr. Campioni the problem seemed to need to be studied more profoundly with some reference to the economic value of the professions. The trades have been reduced to three classes: Those in which the machine has replaced the man; those in which it is auxiliary to the man; and those in which the man is only auxiliary to the machine. It is cruel to continue to teach professions without a future, and to neglect the introduction of new trades whose future is certain.

Fourth. What methods are to be followed in such professional instruction? The reporters were unanimous in insisting on a thorough theoretical basis for practical instruction, and the latter should not be for purposes of exhibition but for practical ends, and it should be organized in such a manner as to approach as far as possible the character of a shop.

Mr. Lloyd-Baker, magistrate of Gloucester, England, thought that to fit a child to gain an honest living a simple trade is the best. He favored agricultural education.

Mr. Drill, of Russia, thought it necessary to take into consideration the origin of the child. If a child comes from the city he will return ordinarily to the city, and if he has only received an agricultural education he is without a trade.

Mr. Prjevalsky, of Moscow, remarked that the question is intimately connected with the economic conditions of each country, and these conditions influence not only the choice of a trade in the school, but also the method of instruction.

Mr. Henry Deglin, of France, insisted upon the extreme importance of taking account of the preferences of children. If a child is sent to the country against his will he will return to the city after his military service, and is then without a trade or profession. Physical fitness must also be considered.

Mr. Brun, director of the agricultural colony of Douaires, France, said that the question of the choice of a trade was a very complex question. Pupils are very inconstant in their ideas, and native idleness must be combated. The principal element in making a good apprentice is to have personal instruction. The choice of a foreman is very important, not only with reference to his power to impart instruction, but with reference to his moral influence. He cited illustrations to show that it was possible to take city boys and make of them good farmers.

In the discussion in the general assembly Mr. Heymann, of the United States, called attention to the system of manual training in vogue in certain schools of the United States in which the pupil received regular and valuable instruction in the use of tools, but without learning a definite trade. At his suggestion the words "manual training" were introduced in the conclusions which follow.

Conclusions:

I. *Instruction given in reform schools or other similar establishments for children should tend to fit them on their discharge to gain their living, or at least to shorten the time of necessary apprenticeship after discharge to attain this degree of capacity.*

The employment of manual training or of some other analogous system in the system of education is to be recommended.

II. *In a choice of a trade for the pupil account should be taken, independently of his personal preferences, of his intellectual and physical fitness; of his origin, whether rural, urban, or maritime; of the place in which he was born; and of that in which he lives, and of the vocation of his parents.*

A list should be prepared of physiological defects which are incompatible with the exercise of various trades, and to this end one should consult employers and workmen, professors of hygiene, physicians of benefit organizations, surgeons of hospitals, etc.

III. *The vocations to be taught should be chosen from those which do not require labor to be too closely divided and should be rather of the category of necessary trades; they should comprise some trades in which apprenticeship is easy and rapid. The future of each trade to be taught should be taken into account, and also other economic conditions of the country.*

IV. *Theoretical instruction should tend to furnish all the knowledge necessary for a rational exercise of the trade; the instruction should above all be of practical value and not capable merely of exploitation; and it should be organized in a manner so that the course in the school will resemble that of an actual shop.*

THE TREATMENT OF YOUNG DELINQUENTS.

Fourth Question:

To secure a rational education for young delinquents, as well as for children who are vicious or simply morally abandoned, is it not desirable to combine the system of committing to an institution with that of placing in families?

The interest in this question was shown in the 22 reports prepared in answer to it. Among these reporters, as the Abbé Bianchi showed in his excellent résumé for the general assembly, 13 were directors or presidents or inspectors of institutions for children, 9 were women, 3 were university professors, 2 were presidents of tribunals or public prosecutors. Among these writers, 7 were French, 5 Italian, 4 American, 3 Russian, 2 Belgian, 2 Swiss, 1 Danish, and 1 English.

When the large number of institution officials or directors is noted in the reports, it is not surprising that the institutional system should have received strong emphasis in their reports, and that there were a number who favored the institutional system exclusively. There were others, fewer in number, who favored exclusively the placing of children in families. A middle ground was taken in other reports, and the idea accepted that both systems might be advantageously employed for different classes of children.

Mr. Stroobant, of Belgium, presented a brief résumé of each report to the section, and it is safe to say that nearly every aspect of the subject was brought out. In the general assembly the Abbé Bianchi grouped and classified the arguments as follows:

The advocates of the institution system maintain that it is difficult to combat in families the influence of children with vicious tendencies, that it is better that they should not leave the institution until they are able to gain their own support. The length of detention should be fixed by the director or the administration. The institution should have an elementary school, a school of gymnastics, military exercises, music, singing, and the power of the director should be almost absolute. It is not possible to meet these conditions in a family. The institution should of course be well directed, with a severe discipline, combined with gentleness and kindness. It is urged that the institution is necessary for certain delinquents who need the discipline, which can not be furnished in any other way.

On the other hand, it is urged against the institution that it stamps the child with an unfavorable mark; that the education acquired does not fit one for the struggle for existence; that it is difficult in the large institutions to have an intimate relation between the educator and the child; that the life is artificial; that they are not armed against the temptations of life; that the child is made an automaton; that they are

deprived of energy and character and of will; and that they easily become a prey to vice when they leave these establishments.

Those who favor the placing of children in families require that the families should be good, and that if a child is not properly placed in a family he should be changed to a more favorable place, where the right conditions are secured. They contend that the family furnishes the ideal system for reforming wayward children; that the good example which a child receives in a family is worth more than the theoretical education which he receives in an institution. The family develops the personality of the child, which the institution represses.

The partisans of the institution respond that it is not easy to place children in families; that it is not easy to find the families which furnish all the conditions necessary; that the number of good families who can be found willing to take such children is very limited; and that children who have moral defects are usually rejected—they do not wish their own children to be contaminated by such association. Many children are thus placed in families which are not fitted to receive them.

After having weighed the advantages and disadvantages of both systems, the proposition has been made to combine them. For certain children the institution, well organized and conducted, is regarded as indispensable. In a good institution the child may be changed, not only in his external appearance but in his character, as a preparation for returning to family life. For other children it may be better to place them directly in families where they will be under moral influences to which they are susceptible.

In various countries the method has been followed, with much success, of placing children in institutions for a tentative period and then transferring them to families. It is possible to combine with institutional life the advantages of private or external education. This is done, among other institutions, in the Casa Benefica, of Turin, Italy, which unites in a surprising manner the advantages of the institution and of the family. It was founded by Judge Luigi Martini in 1889. It has 250 youths. The youngest, about 50 in number, are educated as a family, in charge of a woman within the institution; they go to the public primary schools. The larger boys work in shops without the institution, returning to the institution at noon and at night as to their home. This is supplemented by a moral, physical, and religious education in the institution itself. When a young man is assured of a future by his work and by the habits he has acquired, the director, in his discretion, may permit him to be a free workman, or place him among his friends without any change in his occupation.

The Abbé Bianchi concluded by saying that this question had been treated at the congress of Stockholm and the congress of St. Peters burg, that its theoretical aspects had been exhausted, and that it was time now to put into practice the principles deduced. It is toward

youth that we must turn to find the true solution of our penitentiary questions. Save the child and it will be easy to solve penological questions; they will, in fact, solve themselves.

The discussion in the section and in the general assembly covered much of the same ground presented in the reports, which form a valuable collection of papers on this important subject.

Conclusions:

Considering that the individual placing of children in families and commitment to institutions correspond to different needs; that the first of these methods is best as a system of normal education, and that the second is only practicable as a system of moral improvement and reformation, the congress is of opinion that to secure a rational education of young delinquents, as of those morally abandoned or cruelly treated, it is best to combine both methods.

It is desirable that a period of preliminary observation should precede the decision as to the placing or commitment of the child.

RECEPTIONS AND EXCURSIONS.

No account of the congress would be complete without a recognition of the abundant hospitality of the Belgian Government, extended through its official representatives and also through resident members of congress. An invitation to visit the penal institutions of Belgium was accepted by many foreign delegates, and afforded them an opportunity to study the cellular system in the high degree of development it has attained in Belgium.

An occasion of notable interest was the excursion to Ruysselede-Beernem, a large and finely equipped institution for children. The inspection of this establishment was followed by a banquet, and addresses were made by the minister of justice, Mr. Van der Heuvel, and the response on behalf of the members of the congress was made by Mr. Goos, minister of justice of Denmark.

INDEX OF SUBJECTS.